

Police
Powers and Duties
under
Criminal Procedure Code

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in British India*

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MOST RESPECTFULLY

DEDICATED

TO

S. T. HOLLINS ESQR.

C. I. E., I. P. S., M. L. C.

Inspector General of Police

United Provinces

OF

Agra and Oudh

BY

THE AUTHOR



PREFACE

Police officers in the discharge of their investigating duties are concerned with only those provisions of the Code of Criminal Procedure which deal with their Powers and Duties. They have nothing to do with the other provisions, e.g., Inquiries, Trials, Appeals etc., etc. They have also to refer to departmental rules which have been framed for the working of certain provisions of the Code and which are contained in Police Regulations or in the Hand-book for Police Officers. It is also necessary for them to know the important case-law for the validity of certain proceedings. With these ideas in view, I have in this publication, dealt with only those provisions of the Code which directly concern a Police officer. In the Notes I have given departmental rules at their appropriate places with the digest of rulings. I have also given some practical Hints which have been taken from *Practical Method in Police Work* by Mr. H. R. Warner and M. Safdar Husain, and *Notes on Cr. Procedure Code* by R. B. Sardar Satokh Singh Sahib Diwan Bahadur, a retired Police

(ii)

officer who is now the Inspector General of Police in Rewa State; and some of which are based on my own experience. To add to its utility Schedule II of the Code which is constantly referred to by Police officers has also been printed at the end. I have every hope that the book will be of practical use to Police officers and lawyers practising on the criminal side.

Allahabad

D.C. SINGH

15-2-1933

ABBREVIATIONS

- A=Indian Law Reports, Allahabad Series
A. I. R.=All India Reporter
A. L. J.=Allahabad Law Journal
B. or Bom.=Indian Law Reports, Bombay Series
Bom. L. R.=Bombay Law Reporter
Bur. L. J.=Burma Law Journal
C. or Cal.=Indian Law Reports, Calcutta Series
C. L. J.=Calcutta Law Journal
C. W. N.=Calcutta Weekly Notes
Cr. L. J.=Criminal Law Journal
E. A.=Evidence Act
G. R. and C. O.=General Rules and Circular Orders
I. C. or Ind. C.=Indian Cases
L. or Lah.=Indian Law Reports, Lahore Series
M. or Mad.=Indian Law Reports, Madras Series
M. G. O.=Manual of Govt. Orders
M. L. J.=Madras Law Journal
N. L. J.=Nagpur Law Journal
O. C.=Oudh Cases
O. L. J.=Oudh Law Journal
P. A.=Police Act (No. V of 1861)
P. or Pat.=Indian Law Reports, Patna Series
P. L. J.=Patna Law Journal
P. R.=Punjab Record
P. Reg.=Police Regulations (U. P.)

CONTENTS

Chapter	I—Of Aid and Information to the Magistrates, the Police and Persons making arrest ..	1
Chapter	II—Arrest and Custody ..	7
Chapter	III—Execution of Process ..	32
Chapter	IV—Power to compel the Production .. of Documents and Things ..	51
Chapter	V—Search ..	61
Chapter	VI—Security Proceedings ..	73
Chapter	VII—Dispersal of Unlawful Assemblies..	93
Chapter	VIII—Public Nuisance ..	99
Chapter	IX—Temporary orders in urgent cases of Nuisance or Apprehended Danger	102
Chapter	X—Disputes as to Immovable Property	104
Chapter	XI—Preventive Action of the Police ..	109
Chapter	XII—First Information Report ..	112
Chapter	XIII—Investigation ..	117
Chapter	XIV—Inquests ..	161
Chapter	XV—Accomplice Evidence ..	171
Chapter	XVI—Bail ..	174
Chapter	XVII—Miscellaneous ..	180
	Schedule II, Cr. P. C.	183

CHAPTER I

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARREST

(Ch. IV Cr. P. C.)

Chapter IV of the Code imposes certain obligations and duties on private persons, and does not deal with the powers of the police. Under its provisions they are to assist the Magistrates and the police under certain circumstances and to give aid to persons other than a Police officer executing a warrant. They are also enjoined to give information of the commission of certain offences to the nearest Magistrate or Police officer and also to report such matters as are given in S. 45. In case of their omission to do so, they are liable to punishment under the Indian Penal Code; and in such cases it is the duty of the police to report for their prosecution.

This Chapter has therefore been given in this book with a view that a Police officer may refer to it when there is an occasion for it.

S. 42. Every person is bound to assist a Magistrate or Police officer reasonably demanding his aid, whether within or without the presidency towns.—
Public when to assist Magistrates and police

(a) in the taking or preventing the escape of any other person whom such Magistrate or Police officer is authorised to arrest;

2 POLICE POWERS & DUTIES UNDER CR. P. C. ~.

(b) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

NOTES

'Aid' means *personal assistance* and not merely supply of men—^z
Weir 37.

Police cannot call upon the public to join in arresting unknown dacoits—42 A. 314=18 A.L.J. 169.

Omission to assist is punishable under Sec. 187 I.P.C.

If required by a Magistrate or Officer in charge of a police-station, a private person is also bound to assist in the dispersal of unlawful assemblies—See S. 128 Cr. P. C.

S. 43. When a warrant is directed to a person other than a Police officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

* NOTES

'May aid'—The assistance to be rendered under this section is not obligatory as under S. 42 *Supra*, but is merely optional, and the section indemnifies any person who so aids.

To any person other than a Police officer—See Ss. 77 and 78—Having regard to explanation (2) to Sec. 99 I. P. C., persons acting under this section must, if required, state the authority under which they act or produce the same, if in writing.

S. 44. (1) Every person, whether within or without the presidency-towns, aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections

Public to give information of certain offences

of the Indian Penal Code, viz., 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or Police officer of such commission or intention.

(2) For the purpose of this section the term "offence" includes any act committed at any place out of British India which would constitute an offence if committed in British India.

NOTES

Punishment—As to punishment for breach of obligation imposed by this section, *See* Ss. 118, 176 and 202 of the I.P.C., and for furnishing false information Sec. 177 I.P.C. For the necessity of obtaining sanction *See* S. 195 (a).

The omission to give information must be intentional—*S. P.R.* 1889.

S. 45. (1) Every village-headman, village-accountant, village-watch man, village accountants, landholders Police officer, owner or occupier of and others bound to report certain matters land, and the agent of such owner or occupier in charge of the management of that land and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or the officer in charge of the nearest police-station, whichever is the nearer, any information which he may possess respecting.—

(a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or Police officer, or in which he

4 POLICE POWERS & DUTIES UNDER CR. P. C

owns or occupies land, or is agent, or collects revenue or rent;

- (b) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects, to be a *thug*, robber, escaped convict or proclaimed offender;
- (c) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under sections 143, 144, 145, 147 or 148 of the Indian Penal Code;
- (d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances; or the discovery in or near such village of any corpse or part of a corpse in circumstances which lead to a reasonable suspicion that such a death has occurred, or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person;
- (e) the commission of, or intention to commit, at any place out of British India near such village any act which, if committed in British India, would be an offence punishable under any of the following sections of the Indian Penal Code, namely, 231, 232, 233, 234, 235, 236, 237, 238, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, 460, 489A, 489B, 489C, and 489D;
- (f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Local

Government, has directed him to communicate information.

(2) In this section.—

(i) "village" include village lands; and

(ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the Governor-General in Council in any part of India, in respect of any act which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

(3) Subject to rules in this behalf to be made by the Local Government, the District Magistrate or Sub-divisional Magistrate may from time to time appoint one or more persons with his or their consent to perform the duties of a village-headman under this section, whether a village-headman has or has not been appointed for that village under any other law.

NOTES

When information is given to the nearest Magistrate or police by one of the persons bound to give information under this section, it is not reasonable that every other person bound to give the information should be prosecuted for not having done so—4 Cal. 623; 7 M. 436; 20 Cal. 316. Where the police are already informed of a fact by the Chaukidar, there is no further obligation upon the village-headman to report the same information again to the police—65 I.C. 626=23 Cr.L.J. 162 (O).

In S. 45, 'village-headman' in Madras means a village Munsiff or village Magistrate—32 M. 258 and Mukkaddam and Kotwar in C.P.—7 N.L.R. 101=12 Cr.L.J. 441.

6 POLICE POWERS & DUTIES UNDER CR. P. C. ".

The owner or occupier of a house in a village is not the owner or occupier of land—12 M. 92.

If the owner of land has a knowledge of the facts mentioned in this section, the liability to inform attaches to him.

An agent is liable only if he is 'in charge of the management of the land'.

Information:—The persons enumerated in this section are bound to report an *information* and not a mere *rumour*—25 Cr. L.J. 972; 1900 A.W.N. 207.

Penalty:—Intentional omission to give information is punishable under sections 176 and 202 I.P.C.

CHAPTER II

ARREST AND CUSTODY

I. ARREST

A. Who may arrest

(A brief synopsis)

1. *Any Police officer*, may arrest.—
 - (a) without a Magistrate's order or warrant .. u/ss 54 & 151
 - (b) under a warrant .. u/ss 77 & 79
 - (c) under the written order of an officer in charge of a police-station .. u/ss 56 & 157
 - (d) under the orders of a Magistrate u/ss 64 & 65
 - (e) in non-cognizable offences .. u/s 57
2. *An officer in charge of a police-station* may arrest .. u/ss 55 & 157
3. *A superior police officer* may arrest.. u/s 550
4. *A Magistrate* may arrest or authorise an arrest .. u/ss 64 & 65
5. *A Military Officer* may arrest .. u/ss 130 & 131
6. *A Private person* may arrest.—
 - (a) without a Magistrate's order or warrant .. u/s 59
 - (b) under a warrant .. u/ss 77 & 78
 - (c) under orders of a Police officer u/s 42

8 POLICE POWERS & DUTIES UNDER CR. P. C.

(d) under orders of a Magistrate... u/ss 42, 64 & 65

S. 43 makes a provision for aid to a person, other than Police officer executing a warrant.

Ss. 66 & 67 provide for re-arrest.

B. General Provisions

1. Arrest how made—

S. 46. (1) In making an arrest the Police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

2. Procedure when arrest is resisted.—

S. 46. (2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such Police officer or other person may use all means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with transportation for life.

NOTES

Violence may be used to overcome force but no more than what the actual necessities of a case require.

If the person to be arrested is accused of an offence punishable with death or transportation for life the violence spoken of above may, if necessary, extend even to the causing of his death, but in no case more harm than what is absolutely necessary to effect the arrest should be caused. If the accused attempts to kill or to cause grievous hurt to the person arresting him the latter may in the exercise of his right of private defence cause the death of the accused—²¹ Cr. L.J. 97.

Penalty for resistance—See sections 224, 225, and 225 B. I.P.C.

3. Procedure when the person sought to be arrested is concealed in some place—

S. 47. If any person acting under a warrant of arrest, or any Police officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being in charge of, such place, shall, on demand of such person acting as aforesaid or such Police officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

NOTES

The person or Police officer seeking ingress should notify his business to the person whose house is to be entered. A private person not acting under a warrant (e.g., u/s 59) cannot effect a forcible entry into the house into which the person to be arrested may have escaped.

Notice of authority and purpose is necessary. No precise words are needed, and, it is enough to give notice that entry is sought under proper authority.—*Russell on Crimes* p. 145.

The provisions of this section and of Ss. 48 and 49 apply also to arrests under S. 66 *infra*.

4. *Procedure where ingress is not obtainable—*

S. 48. If ingress to such place cannot be obtained under section 47, it shall be lawful, in any case for a person acting under a warrant and in any case in which a warrant may issue but cannot be obtained without affording the person to be arrested an opportunity to escape, for a Police officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other place, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance;

10 POLICE POWERS & DUTIES UNDER CR. P. C. .

Provided that, if any such place is an apartment in
Breaking open Zanana the actual occupancy of a woman
who, according to custom, does not appear in public,
such person or Police officer shall, before entering such
apartment, give notice to such woman that she is at
liberty to withdraw and shall afford her every reasonable
facility for withdrawing and may then break open the
apartment and enter it.

NOTES

The procedure laid down in this section applies to search warrants also—See S. 102.

A Police officer purporting to act under this section should first endeavour to obtain a warrant. It is only when such warrant cannot be obtained in time that he is authorised to forcibly enter the house. If he fails to notify his authority and purpose, the owner of the house may obstruct him with impunity.

Police officer's entry is not trespass—36 C. 433. A Police officer who knowingly disobeys the proviso to this section, may be liable under S. 166 I. P. C.

5. Power to break open door etc. for purpose of liberation.

S. 49. Any Police officer or other person authorised to make an arrest may break open any outer or inner door or windows of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

C. Arrests without warrant

I. Under Cr. P. C.

S. 54. (1) Any Police officer may, without an order When Police may arrest from a Magistrate and without a without warrant warrant, arrest—

- firstly*, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists of his having been so concerned; ;
- secondly*, any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking;
- thirdly*, any person who has been proclaimed as an offender either under this Code or by order of the Local Government;
- fourthly*, any person in whose possession any thing is found which may reasonably be suspected to be stolen property, and who may reasonably be suspected of having committed an offence with reference to such thing;
- fifthly*, any person who obstructs a Police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;
- sixthly*, any person reasonably suspected of being a deserter from His Majesty's Army, Navy or Air Force or of belonging to His Majesty's Indian Marine Service and being illegally absent from that service;
- seventhly*, any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of British India, which, if committed in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition or under the Fugitive

Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India;

eightly, any released convict committing a breach of any rule made under section 565, sub-section (3); *ninthly*, any person for whose arrest a requisition has been received from another Police officer provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

(2) This section applies also to the police in the town of Calcutta.

NOTES

This section gives wide powers to a Police officer to make an arrest, and it is necessary in exercising such large powers to be cautious and circumspect—14 C. 76.

'Any Police officer' means an officer who has been appointed under the Police Act (No. V of 1861). A village Chaukidar is not a Police officer—41 Cal. 17=20 I. C. 750; 35 C. 361; 3 A. 60.

In case of cognizable offences, any Police officer may arrest though a warrant may have been issued to another 40 M. 1028; 1922 A. 457. He need not be in uniform—21 A. I. J. 791. Native State Police cannot arrest in British India—29 A. 377.

'May arrest'—A Police officer has the power to arrest in cases mentioned in the section but under S. 23 of the Police Act it is his duty to arrest all persons whom he is legally authorised to arrest.

It is illegal to keep a man in condition of restraint without first arresting him—1885 A. W. N. 59.

The arrest under this section may be made at any place in British India whether within or outside the circle to which the Police officer is attached—16 Cr. L. J. 15.

First clause—Complaint need not be to the Police officer—1922 A. 457 ; 1923 P. 547. The Police officer must himself consider the facts and form his own judgment under this clause—44 C. 76=37 I. C. 57. S. 56 does not deprive the constable of his power under S. 54—5 Pat. 533=1926 Pat. 424.

Second clause—Cf. S. 55.

Fourth clause—It is necessary that the person to be arrested should not only be found with property reasonably suspected to be stolen but that he should himself be also suspected of having committed an offence with reference to such property. Thus it is illegal to arrest one who has accidentally come by stolen property and who is ignorant of its character. For the seizure of stolen property See S. 550.

Seventh clause—The two things must be proved—52 Cal. 319 (mere suspicion or surmise is not sufficient). If an offence has been committed at a place out of British India the offender may be arrested only if under Extradition Act XV of 1903 or the Fugitive Offenders Act 1881 he is liable to be arrested and detained in custody in British India

Ninth clause—Compare this clause with S. 56 under which an order in writing may be directed to a subordinate officer.

The requisition may be made by a special messenger, by post or by telegraph. It should specify, (a) the person to be arrested, (b) the offence for which arrest is to be made, and (c) should indicate that the officer making the request is himself competent to arrest the person.

S. 55. (1) Any officer in charge of a police-station **Arrest of vagabonds, habitual robbers etc.** may, in like manner, arrest or cause to be arrested—

- (a) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence; or

- (b) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or
- (c) any person who is by repute an habitual robber house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.
- (2) This section applies also to the police in the town of Calcutta.

NOTES

The powers under this section are exceptional and should be exercised with great caution.

Powers of arrest under this section may also be exercised by officers of higher rank—*See S. 551.*

In like manner—i.e., without an order from a Magistrate and without a warrant.

Cause to be arrested—i.e., by issuing a written order to a subordinate officer under S. 56.

Clause (a)—The circumstances should be such as to indicate that the person intended to commit a cognizable offence. It is not unusual to find persons with jemmies lurking near residential houses in dark streets at night. The arrest in such a case is permissible under S. 54.

Clause (b)—The ostensible means of livelihood should be lawful or at least not illegal. Criminals arrested in suspicious circumstances do not readily disclose their identity particularly when they are wanted for heinous offences elsewhere. As soon as a stranger has been arrested under this or the preceding clause, the officer in charge of police-station should endeavour to find out as to why the prisoner really is and if necessary to make references to the finger-print bureau and other circles. If he cannot immediately send up the case to court he should put up the accused before

the Magistrate for an order under S. 112 and ask for a postponement under S. 344.

Persons arrested under clauses (a) and (b) are to be dealt with under S. 109.

Clause (c)—Care should be taken to make an arrest under this clause.

After an acquittal, re-arrest under S. 55 and detention of the accused has been condemned by the Allahabad High Court—*41 A. 384.*

Departmental rules have been framed in almost every province providing for the scrutiny of evidence in bad livelihood cases, by a gazetted Police officer before the arrest of a reputed habitual criminal is ordered.

Bail—Persons arrested under this section should be given the option of reasonable bail—*14 A. 45.*

Escape from lawful custody—Resistance or obstruction to lawful apprehension, or escape or rescue from lawful custody in cases mentioned in this section is punishable under S. 225 B. I.P.C.

S. 57. (1) When any person who in the presence of a Police officer has committed Refusal to give name or has been accused of committing and residence a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name and residence may be ascertained.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required.

Provided that, if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

16 POLICE POWERS & DUTIES UNDER CR. P. C. . .

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

S. 151. A Police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing if it appears to such officer that the commission of the offence cannot be otherwise prevented.

S. 401 (3) If any condition on which a sentence has been suspended or remitted is, in the opinion of the Governor-General in Council or of the Local Government, as the case may be, not fulfilled the Governor-General in Council or the Local Government may cancel the suspension or remission, and therefore the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any Police officer without warrant and remanded to undergo the unexpired portion of the sentence.

II. Under Special Acts

A Police Officer may arrest any person—

i. under section 34 of the Police Act (No : 5 of 1861) for offences mentioned therein ;

(The power of arrest given to Police officers by section 34 of Act V of 1861 should not be exercised in the case of a person whose name and address are known. Such a person should be called upon to

execute a bond to appear before a Magistrate if required—
P. Reg. (U. P.) Ch. XII para 137)

2. under Ss. 131 and 132 of the Railways Act (No. IX of 1890) for committing any offence mentioned in Ss. 100, 101, 119, 120, 121, 126, 127, 128 or 129 or in S. 130 sub-section (1);
3. gambling in a public street (S. 13 of Act No. III of 1867);
4. carrying arms under suspicious circumstances—
S. 12 Arms Act XI of 1878;
5. is a dangerous lunatic as provided by S. 4 and S. 6A of the Lunatic Assylum Act No. XXXVI of 1858;
6. as provided by S. 250 of the Cantonments Act (No. II of 1924);
7. as provided by S. 21 of the Criminal Tribes Act No. VI of 1924;
8. under S. 13 of the Explosive Substance Act (No. IV of 1884) committing dangerous offences mentioned in the said Act;
9. under S. 7 of the Indian Fisheries Act (No. IV of 1897) committing any offence punishable under section 4 or 5 or Rules framed under S. 6 of the said Act;
10. as provided by S. 12 (a) and (b) of the Official Secrets Act (No. XIX of 1923);
11. as provided by S. 63 of the Indian Forest Act (No. VII of 1878);
12. under S. 14 (d) of the Opium Act (No. I of 1878) for having in his possession opium liable to be confiscated;
13. under S. 29 of the Reformatory Schools Act (No. VIII of 1897) who is a youthful offender and who

has escaped from a Reformatory School or from his employers;

14. under S. 17 of the Salt Act (No. XII of 1882) for committing any offence mentioned under S. 16 of the said Act;

15. under S. 14 of the Foreigners Act (III of 1864);

16. who is a vagrant as provided by S. 19 of the European Vagrancy Act (No. IX of 1874);

17. under S. 29 of the North India Ferries Act No. XVII of 1878 for offences mentioned in Ss. 25 and 26 of the said Act;

18. as provided by S. 28 Cl. (2) of the Indian Emigration Act (No. XXI of 1883) for offences under S. 82 of the said Act;

D. Procedure when a subordinate P.O. is deputed to arrest without warrant

S. 56. (1) When any officer in charge of a police-station or any Police officer making an investigation under Chapter XIV requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is made. The officer so required shall before making the arrest notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.

(2) This section applies also to the Police in the town of Calcutta.

NOTES

Officer making an investigation—Ordinarily the investigating officer is a Sub-Inspector. In cases of urgency when no senior officer is available the investigation may be made by a Head Constable till he is relieved by a Senior officer. Section 157 requires the investigating officer to take measures for the discovery and arrest of the offender.

Any officer subordinate to him—This section confers no power on a Police officer to send private persons to make an arrest which he himself can lawfully make—5 L.B.R. 21=2 I.C. 619—To officers of equal rank in other circles or places in British India a requisition under the ninth clause of S. 54 should be sent.

Order in writing—An order under this section may be issued even when a Magistrate has issued a warrant—18 A. 246. The order should be definite and should specify the person to be arrested, the offence or other cause for which the arrest is to be made, and the officer required to make arrest.

This section does not deprive a police constable of his power u/s. 54—5 Pat. 533.

Shall notify the substance of the order.—Compare S. 80. If he does not do so the person to be arrested or his friends may offer resistance or obstruction to arrest and may be able to successfully plead the right of private defence.

In an Oudh case (1925) O. (544) it has been held that a subordinate officer is not bound to produce the order unless he is asked for.

Departmental Rule.—P. Reg. (U. P.)

Any Police officer may cause any person whom he is empowered to arrest under S. 54 (1) Cr. P. C. to be arrested by giving to any other police officer enrolled under the Police Act (V. of 1861) the information which will justify that officer in making the arrest in the exercise of his own powers under that section. For the purpose of S. 54 (1) a telegram may be considered to furnish credible information of a person having been concerned in a cognizable offence. The officer in charge of a station or any officer making an

investigation under Chapter XIV of the Code of Criminal Procedure may also cause any person whom he is empowered to arrest under S. 54 to be arrested by issuing an order in writing under S. 56 to any officer subordinate to him. The officer in charge of a station may similarly issue an order in writing under S. 56 against any person whom he is empowered to arrest under S. 55—para 134.

E. Arrested Persons how to be treated

S. 50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

NOTES

Departmental Rule.

P. Reg. (U. P.)—Para. 142—A person arrested should not be subjected to any unnecessary hardship or indignity; handcuffs should be used only if there is any reasonable ground for considering that they are necessary to prevent escape, violence or suicide. Visits of friends and legal advisers should be permitted subject to any precautions which may be necessary to prevent the prisoner from escaping or otherwise defeating the ends of justice.

When handcuffs are used a pair should be selected which will fit the prisoner's wrists; the key should be carried in the breast pocket of the Police officer in charge of the prisoner.

Madras P. Manual, p. 96—Police officer will be severely punished if prisoners in their custody are subjected to needless indignity or harsh treatment. As a rule persons of good social position who are accustomed to use carts and carriages, may be allowed that accommodation provided that it does not endanger safe custody.

C. P. Police Manual.—Apart from the criminal liability the maltreatment of defenceless prisoners is a dishonourable act which cannot in any way be extenuated and will ordinarily be punished with dismissal, whatever the rank or antecedent of the culprit. Police officers of all ranks must exert themselves to prevent the good name of the force being sullied by the faintest show of harshness or violence in treatment of the persons in custody.

Penalty.—The breach of the rule will render a Police officer liable to punishment under S. 29 of the Police Act.

F. Police action after Arrest

1. Bail

The person arrested is to be admitted to bail provided the circumstances of the case and the nature of the offence permit it.

For the provision of bail—*See Chapter XVI "On Bail".*

2. Search of arrested person

S. 51. Whenever a person is arrested by a Police officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the Police officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles other than necessary wearing-apparel, found upon him.

NOTES

It is only when the person arrested cannot be legally admitted to bail or has not been able to furnish the required bail that he may be searched.

All articles which on search are taken possession of, should be kept in safe custody and promptly reported to a competent Magistrate for disposal—*See S. 523.*

When arrested person is a woman

S. 52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

22 POLICE POWERS & DUTIES UNDER CR. P. C.

3. *Seizing offensive weapons.*

S. 53. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

4. *Person arrested to be taken before Magistrate or officer in charge of police-station.*

S. 60. A Police officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a Police station.

5. *Person arrested not to be detained for more than 24 hours.*

S. 61. No Police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for journey from the place of arrest to the Magistrate's Court.

NOTES

The precautions laid down in Ss. 60, 62 and 63 are obviously designed to secure that within not more than 24 hours of the arrest of an accused person some Magistrate shall have seizin of what is going on and some knowledge of the nature of the charges against the accused, however incomplete the information may be—
S. 25 Cr. L. J. 1203.

This section prescribes the maximum period of detention when such detention is found to be absolutely necessary for the purpose of investigation. In no case is a Police officer justified in detaining a person for one single hour except on some reasonable ground justified by all the circumstances of the case.

The time allowed by this section is 24 hours plus the time necessary for the journey from the place of arrest to the Magistrate's Court.

Departmental Rule.

The restrictions imposed by S. 61 and 167 Cr. P. C. on the period for which persons arrested without warrant may be detained in police custody must be strictly observed—*Pol. Reg. (U. P.) para 39.*

6. *Apprehensions to be reported.*

S. 62. Officers in charge of police stations shall report to the District Magistrate, or, if he so directs, to the Sub-Divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations whether such persons have been admitted to bail or otherwise.

NOTES

All such matters are recorded in General Diary. A copy of this diary is sent daily to the Superintendent of Police who forwards it to the District Magistrate such extracts from it as he considers necessary.

7. *Discharge of arrested person.*

S. 63. No person who has been arrested by a Police officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

G. *Escape and Retaking*

i. *Power to pursue and retake.*

S. 66. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or

24 POLICE POWERS & DUTIES UNDER CR. P. C.

was rescued may immediately pursue and arrest him in any place in British India.

2. Action under sections 47, 48 and 49 in such a case.

S. 67. The provisions of S. 47, 48 and 49 shall apply to arrests under S. 66, although the person making any such arrest is not acting under a warrant and is not a Police officer having authority to arrest.

3. Pursuit of offenders into other jurisdiction.

S. 58. A Police officer may, for the purpose of arresting without warrant any person whom he is authorised to arrest under this Chapter (i.e., Chapter V. of Cr. P. C.) pursue such person into any place in British India.

NOTES

Departmental Rule.

A Police officer may follow to any place in British India an offender whom he is empowered to arrest—*P. Reg. (U.P.) Ch. XII Para. 135.*

Procedure for arrest in Native States. (*See U. P. Police Reg. Ch. XXIII.*)

General Rule

As a general rule if a criminal crosses the frontier of an Indian State, the police may not follow him, but should at once return and report the circumstances through the Superintendent to the Magistrate who will take the necessary action. They may however, inform the police of the State of the facts of the case and suggest that the offender be arrested and detained in custody pending a formal application for his delivery to the British authorities—*para 293.*

There are two exceptions to this rule—

Exceptions to General Rule

(a) the police when in hot pursuit of a fugitive who has committed a serious offence in British territory may follow and arrest him in an Indian State;

- (d) the police may arrest an offender in an Indian State if the District Magistrate has previously referred to the authorities of the State and obtained their permission for such action with reference to classes of cases or particular offender—para 294.

Action on arrest

Whenever a Police officer of British India arrests a person in an Indian State, he should immediately inform the nearest authority of the State, and must make over the prisoner to the police of the State for custody—para 295.

NOTE. The orders of the two preceding paragraphs do not apply to arrests in Nepal which cannot be made by the police of British territories.

Procedure for arrest by the police of Indian States

The police of Indian States may not make arrests in British territory; but if they request the police of the United Provinces to make an arrest in a case covered by S. 54 (1) VII of the Code of Criminal Procedure the arrest should be made and the person arrested sent by the District Magistrate for orders—para 305.

H. Arrest of Particular Persons

When a Railway servant, whose removal from duty would disorganize the working of Railway servants the Railway, has to be arrested, his arrest should ordinarily be deferred until he is relieved; but he may be arrested and allowed to carry on his duties under guard, if it is advisable to place him under restraint at once.—*P. Reg. (U.P.) para 136.*

The power of arrest given to Police officers by **Arrest under Sec. 34** section 34 of Act V of 1861 should **Police Act** not be exercised in the case of a person whose name and address are known. Such a person should be called upon to execute a bond to appear before a Magistrate if required —*P. Reg. (U. P.) para 137.*

When a European deserter from the Army, Navy, Air Force or Indian Marine service ^{European and Indian} ~~deserters~~ is arrested he must be taken before a Justice of the Peace, who should be asked to prepare and sign the descriptive return in the form laid down in the fourth schedule of the Army Act, as required by section 163 (1) thereof. The descriptive return should be sent to the Officer Commanding the Military District or Station in which the Court is situated. An Indian deserter must be taken before a first class Magistrate.

If the corps from which the man is believed to have deserted be quartered at the place of capture, or in the immediate vicinity of it, he shall be sent by the Magistrate direct to the corps. If the corps be quartered at a distance he shall be made over to the nearest Officer Commanding a Station—*P. Reg. (U. P.) para 322.*

When, after a deserter has been arrested by the police and made over to the Military Authorities, a form of certificate under S. 91—A6 of the Indian Army Act of 1911 is sent to the police for completion, it must be completed and signed by an officer not below the rank of an officer in charge of a police-station. If it is signed by an officer of lower rank it will be wholly invalid in evidence at the Court-Martial which tries the deserter.—*P. Reg. (U. P.) para 326.*

Deserters from the Forces, or from any unit of the forces of an Indian State should not be surrendered to the Durbar, unless desertion from the forces of such State or from the particular unit concerned has been specified by notification in the Gazette of India as an extraditable offence under the first schedule of the Indian Extradition Act (XV of 1903). Unextraditable deserters if enlisted in the police should be dismissed unless their retention in the force is sanctioned by the

Deputy Inspector General of Police.—*P. Reg. (U. P.)*
Para 327.

Arrest of Juvenile offenders.

See page 30.

I. Magistrate's power to arrest or authorise arrest.

S. 64. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

S. 64. Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

J. Arrest by private persons and Procedure on such Arrest

i. Arrest without warrant.

S. 59. (1) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, shall make over any person so arrested to a Police officer, or, in the absence of a Police officer, take such person, or cause him to be taken in custody to the nearest police-station.

(2) If there is reason to believe that such person comes under the provisions of S. 54 a Police officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-cognizable offence and he refuses on the demand of a Police officer to give his name and residence, or gives a name or residence which such officer

28 POLICE POWERS & DUTIES UNDER CR. P. C.

has reason to believe to be false, he shall be dealt with under the provisions of S. 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

NOTES

Any private person.—This phrase will include a village Chaukidar also who is not a Police officer within the terms of S. 54.

May arrest.—i.e., without an order from a Magistrate and without a warrant. Under this section a private person is justified in arresting such persons as are contemplated by it, but he is not bound to do so.

If he rightly exercises his power, the resistance or obstruction to lawful apprehension by him would be punishable under Ss. 224 or 225 I.P.C. as the case may be.

In his view commits.—Arrest may only be made by the person in whose presence a non-bailable and cognizable offence is committed. See 89 I. C. 1032 (2)=1926 Pat. 53. A mere suspicion or information will not justify an arrest—*II M. 480.*

Make over without necessary delay.—If the private person keeps the arrested man in his own custody he will be guilty under S. 342 I. P. C.=98 I.C. 594.

2. *With a warrant.*—

A private person can arrest under a warrant when it is directed to him under Ss. 77 and 78 of the Code.

3. *Under orders of a Police officer.*

See Ss. 42.

4. *Under the orders of a Magistrate.*

See Ss. 42, 65 and 66 of the Code.

II. *Custody*

Departmental Rules.—See *P. Reg. (U.P.) Ch. XII.*
Para. 144—Officers in charge of police-stations are responsible that proper care is taken of undertrial

prisoners confined in station lock-ups or in transit to Courts; blankets, *lotas*, and conservancy utensils are supplied to all station lock-ups by the Superintendent of Police from the grant provided for that purpose.

Lock-ups should be supplied out of the police contract grant with *Tat pardaks* or other contrivances for the protection of the prisoners from the inclemency of the weather.

Para. 148.—Prisoners under trial in the Court of a Magistrate in camp should be kept at night in the lock-up of a police station, if there is a station within 5 miles; hand-cuffs should ordinarily be put on them when in transit. When they are kept at night elsewhere than in a lock-up, they should be fastened to each other by chains or ropes. Sometimes prisoners in weak state of health have to be provided with carriage, the *duli* will ordinarily be the best means of conveyance. The officer in charge of the prisoner is responsible, subject to the orders of the Magistrate for their protection from the weather, their transport and food.

The practice of sending under-trial prisoners arriving at head quarters at sunset to the police lock-up is irregular and open to serious objection. The Inspector-General of Prisons has issued instructions to all Jail Superintendents to arrange for the admission of any undertilal prisoner to jail after lock-up time, provided that the necessary warrant is produced at the jail gate. Magistrates of districts have been directed by Government to designate a Magistrate specially to sign the remand forms of prisoners who arrive for the first time at headquarters after lock-up and Superintendents of Police should see that these orders are understood and acted up to by their Prosecuting Inspectors.

Para 150. When a person arrested has to be kept in custody but is in such state of **Sickly persons** health that he cannot be moved without serious risk to himself or to others, the officer making the arrest must make suitable arrangements to keep him in custody where he is.

Para 149. Officer in charge of police stations will be held personally responsible that **Lunatics** lunatics, or persons suspected to be such, are never in any circumstances confined in cells with other persons.

Minor girls As a rule, minor girls, specially those termed as "strayed" should not be kept in the custody of the police. In all cases where a hospital or dispensary with female accommodation exists, such girls should be made over to the hospital authorities as dieted patients.

The period for which it will be necessary for the dispensary to keep such girls will not exceed fifteen days save with the consent of the district board concerned.

Arrest and Custody of Juvenile Offenders

(a) Except in heinous cases, or where there is real reason to fear that the offender will abscond, a juvenile offender shall not be arrested, but security should be taken for his appearance.

(b) A warrant for the arrest of a juvenile offender shall be entrusted to a plain clothes officer, who will be instructed to effect the arrest, if possible, in such a manner as not to attract public attention. Similarly a juvenile offender arrested under a warrant shall be handed over to the custody of a plain clothes officer, and produced with as little delay as possible before the Magistrate who is to try the case.

(c) Should it be impracticable to produce the juvenile offender before the Magistrate the same day he shall be taken with the least possible delay to the nearest police-station.

(d) Juvenile offenders are on no account to be placed in the same cell as an adult prisoner at a police-station. If the male *Hawalat* is already occupied, the prisoner shall be accommodated in the female *Hawalat* and if both are occupied the station officer must provide accommodation in the office or any spare quarters. If this is not feasible he must arrange for accommodation in the town or village, and depute plain clothes officers to guard the prisoner.

(e) Except in the case of members of a Criminal tribe or for some special reason, hand-cuffs should never be imposed nor ropes used for securing the prisoner.

(f) While in transit from the place of arrest to the headquarter station, juvenile offenders should invariably be taken by rail if the railway is available.

(g) On arrival at head quarters, they shall, if possible, be at once placed before the Magistrate. If this is not possible, they shall, during their detention pending trial, be kept in one of the headquarter's police-station.

(h) While being escorted from the police-station or lock-up to Court and back, they should invariably be escorted by plain clothes officers, and as a general rule *ekkas* should be hired for such journeys. They should on no account be marched to Court with the usual daily batch of under-trial prisoners.

CHAPTER III

EXECUTION OF PROCESS

A.—SUMMONS

S. 68. (1) Every summons issued by a Court under
Form of summons this Code shall be in writing in
duplicate, signed and sealed by the
presidency officer of such Court, or by such other
officer as the High Court may, from time to time, by
rule, direct.

(2) Such summons shall be served by a Police
Summons by whom officer, or subject to such rules as
served the Local Government may pres-
cribe in this behalf, by an officer of
the Court issuing it or other public servant.

(3) This section applies also to the police in the towns
of Calcutta and Bombay.

NOTES

Under S. 23 of Police Act (No. V of 1861) it is the duty of the
police to execute all lawful orders.

A Police officer receiving a summons for service should see
that it is in proper order. A summons is invalid unless it bears
the Court's seal—37 M.L.J. 588=58 I.C. 528.

Mode of Serving Summons

S. 69. (1) The summons shall, if practicable, be
served personally on the person summoned, by deliver-
ing or tendering to him one of the duplicates of the
summons.

(2) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

(3) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered post letter addressed to the chief officer of the corporation in British India. In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

NOTES

Mere tendering the summons amounts to service, even when the person to whom the summons is tendered refuses to take it—
40A. 577=16 A.L.J. 453; 1886 A.W.N. 93

There is no authority for effecting a forcible entry into the house of a person for the purpose of serving a summons on him—
28 M.L.J. 504.

S. 70. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by having one of the duplicates for him with some adult male member of his family, or, in a presidency town, with his servant residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

NOTES

Every effort should first be made to serve the summons personally on the man summoned. It is only when he cannot be found or when he evades service that the procedure laid down in this section should be adopted.

S. 71. If service in the manner mentioned in Ss. 69 and 70 cannot by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides ; and thereupon the summons shall be deemed to have been duly served.

Procedure when service cannot be effected as before provided

S. 72. (1) Where the person summoned is in the active service of the Government or Service on servant of Government or of Railway Company, the Court of a Railway Company, issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed ; and such head shall thereupon cause the summons to be served in manner provided by S. 69, and shall return it to the Court under his signature with the endorsement required by that section.

(2) Such signature shall be evidence of due service.

S. 73. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

Proof of service in such cases and when serving officer not present

S. 74. (1) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to

be endorsed (in manner provided by S. 69 or S. 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence and the statement made therein shall be deemed to be correct unless and until the contrary is proved.

(2) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

NOTES

Departmental Rule—(*P. Reg. (U. P.) Ch. XX para 264*)—when a Police officer serves a summons outside the local limits of the jurisdiction of the Court from which it was issued, he shall make an affidavit in Form No. 42 before the nearest Magistrate. The affidavit and the duplicate of the summons shall be returned to the Court by which the summons was issued.

Printed forms of the affidavit shall be issued to all officers in charge of police-stations.

B. *Warrant of Arrest*

S. 75. (1) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court.

(2) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

NOTES

When issued.

A warrant may be issued to secure the attendance of (1) an accused, (2) a person called upon to show cause against a Court's order, or (3) a witness u/s. 90.

36 POLICE POWERS & DUTIES UNDER CR. P. C.

Essentials of a warrant—A warrant shall—

(a) be in writing, (b) be signed by the presiding officer, (c) bear the seal of the Court, (d) clearly describe the person to be arrested, (e) specify the offence charged or the reason for which arrest has been ordered, and (f) describe the Police officer or the person who is to execute it. It may be directed to an officer in charge of a police-station without his name being mentioned.

The police should refuse to accept irregular processes of any kind for service—*P. Reg. (U.P.) para 266.*

Its cancellation.

The Court issuing the warrant may cancel it at any time.

No warrant of arrest in a noncognizable case shall for any reason be kept by the police for more than six weeks, when a warrant is returned unexecuted full reasons for its non-execution must be reported to the Court—*P. Reg. (U.P.) para 265.*

S. 76. (1) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.
Court may direct security to be taken

(2) The endorsement shall state—

(a) the number of sureties;

(b) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound; and

(c) the time at which he is to attend before the Court.

(3) Whenever security is taken under this section,
 Recognisance to be forwarded the officer to whom the warrant is directed shall forward the bond to the Court.

NOTES

As provided by S. 513 the person arrested may be permitted to deposit the amount fixed in lieu of executing such bond.

The warrant after its execution together with the bond executed by the person arrested shall be forwarded by the officer to whom it was directed to the Court as required by sub-section (3).

S. 77. (1) A warrant of arrest shall ordinarily be directed to one or more Police officers, and, when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no Police officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same.

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them.

NOTES

May be directed to one or more Police officers—Such officers are bound to execute all warrants lawfully issued by a competent authority—See S. 23 of Police Act No. V of 1861.

Duty of Police officers on receiving warrants—Generally a warrant is directed to the officer in charge of a police station for execution. The officer receiving the warrant may again transfer it

38 POLICE POWERS & DUTIES UNDER CR. P. C.

for execution to another Police officer, but in every instance a regular endorsement must be made, so that the name of the officer executing the warrant may be apparent on the order itself.

A warrant directed to police cannot by endorsement authorise a private person to make arrest—*See* Ss. 42 and 43 Cr. P. C.

S. 78. (1) A District Magistrate or Sub-Divisional Warrant may be directed to land-holders etc. Magistrate may direct a warrant to any landholder, farmer, or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non bailable offence, and who has eluded pursuit.

(2) Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, his land or farm, or the land under his charge.

(3) When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest Police officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under S. 76.

NOTES

In important cases the police should ask for the issue of warrants under this section. Villagers are in the best position to have absconders arrested.

Intentional omission to execute the warrant is punishable under S. 187 I.P.C.

Under Cl. (3) the Police officer to whom the person arrested is made over is to take him before a Magistrate unless security is taken under S. 76.

S. 79. A warrant directed to any Police officer may also be executed by any other Police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

NOTES

The endorsement should be regularly made by *name* to a certain person, in order to authorise him to make the arrest—
4 C. W. N. 85.

S. 80. The Police officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

NOTES

A Police officer should not proceed to arrest unless he has a warrant in his possession, otherwise resistance offered to him will not be punishable under Ss. 186, 224, 225 and 225 B. I.P.C.

Mere showing the warrant is not sufficient. An opportunity should be given to the person to be arrested to read it, but if he is illiterate the substance of the warrant should be notified to him. If this is not done the arrest will be unlawful as has been held in some cases.

S. 81. The Police officer or other person executing a warrant of arrest shall (subject to the provisions of S. 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

S. 82. A warrant of arrest may be executed at any place in British India.

Where warrant may be executed

NOTES

As soon as the boundary of British India is crossed the warrant becomes inoperative; but the officer may follow the offender in a Native State and request the authorities to arrest and detain him till a formal application is made for his rendition.

S. 83. (1) When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a Police officer, forward the same by post or otherwise to any Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency town within the local limits of whose jurisdiction it is to be executed.

(2) The Magistrate or District Superintendent or Commissioner to whom such warrant is so forwarded shall endorse his name thereon and, if practicable cause it to be executed in manner herein before provided within the local limits of his jurisdiction.

S. 84. (1) When a warrant directed to a Police officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a Police officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

(2) Such Magistrate or Police officer shall endorse his name thereon and such endorsement shall be sufficient authority to the Police officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

(3) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or Police officer within the local limits of whose jurisdiction the warrant is to be executed, will prevent such execution, the Police officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

(4) This section applies also to the police in the town of Calcutta.

S. 85. When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest or is nearer than the Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency town within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate or Commissioner or District Superintendent.

S. 86. (1) Such Magistrate or District Superintendent or Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court:

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner

shall take such bail or security, as the case may be, and forward the bond to the Court which issued the warrant.

(2) Nothing in this section shall be deemed to prevent a Police officer from taking security under section 76.

C. Proclamation and Attachment

S. 87. (1) If any Court has reason to believe (whether after taking evidence or Proclamation for person absconding not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(2) The proclamation shall be published as follows:—

(a) It shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides,

(b) It shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village; and

(c) a copy thereof be affixed to some conspicuous part of the Court house.

(3) a statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

NOTES

Departmental Rules—Whenever an officer in charge of a police-station or an officer making an investigation under Ch. XIV Cr. P. C. is satisfied that a person whom he is empowered to arrest under S. 54 of the Code has absconded or is concealing himself so that he cannot be arrested, he must apply to the Court having jurisdiction, successively, for a warrant of arrest, a proclamation under S. 87 Cr. P. C. and an order of attachment under S. 88. All these applications should be made as early as may be desirable in any particular case; they need not be delayed for the conclusion of an investigation; and a warrant of arrest, a proclamation and an order of attachment may all be legally issued one after the other in the proper order on the same day. The officer who asks the Court to issue a proclamation must be prepared to produce legal evidence to prove that the person whose arrest is desired has absconded, and must not accept the mere statement or report of an officer who has no personal knowledge of the absconding to satisfy the Court. When an order of attachment is issued he must satisfy himself that it is efficiently executed.

Any person for whose appearance a proclamation has been issued under S. 87 Cr. P. C. is an "absconded offender" within the meaning of this chapter—*P. Reg. (U. P.) Ch. XVIII para 200.*

The period of thirty days allowed by the section should be reckoned from the date on which the proclamation was published in the accused's place of residence—*See 17 Cr. L. J. 414.*

The absence of such a statement as is required by Cl. (3) would vitiate the proclamation proceeding—*22 A. 216; 17 Cr. L. J. 414; 27 A. 572.*

As soon as the report of the officer deputed to publish the proclamation has been received the Court should be asked by the prosecuting officer or the Police officer attached to the Court to record its certificate validating the proclamation.

44 POLICE POWERS & DUTIES UNDER CR. P. C.

S. 88. (1) The Court issuing a proclamation under S. 87 may at any time order Attachment of property of person absconding the attachment of any property, movable or immovable, or both, belonging to the proclaimed person.

(2) Such order shall authorise the attachment of any property belonging to such person within the district in which it is made; and it shall authorise the attachment of any property belonging to such person without such district when endorsed by the District Magistrate or Chief Presidency Magistrate within whose district such property is situate.

(3) If the property ordered to be attached is a debt or other movable property, the attachment under this section shall be made—

- (a) by seizure ; or
- (b) by the appointment of a receiver; or
- (c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or
- (d) by all or any two of such methods, as the Court thinks fit.

(4) If the property ordered to be attached is immovable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the district in which the land is situate, and in all other cases—

- (a) by taking possession ; or
- (b) by the appointment of a receiver; or
- (c) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf; or

(d) by all or any two of such methods, as the Court thinks fit.

(5) If the property ordered to be attached consists of live-stock or is of a perishable nature, the Court may, if it thinks expedient order immediate sale thereof, and in such case the proceed of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Ch. XXXVI of the Code of Civil Procedure.

(6A) If any claim is preferred to, or objection made to the attachment of any property attached under this section within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under this section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part:

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant or objector, be continued by his legal representative.

(6B) Claims or objections under sub-section (6A) may be preferred or made in the Court by which the order of attachment is issued, or, if the claim or objection is in respect of property attached under an order endorsed by a District Magistrate or Chief Presidency Magistrate in accordance with the provisions of sub-section (2), in the Court of such Magistrate.

(6C) Every such claim or objection shall be inquired into by the Court in which it is preferred or made:

Provided that, if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate of the first or second class or to any Presidency Magistrate, as the case may be, subordinate to him.

(6D) Any person whose claim or objection has been allowed in whole or in part by an order under sub-section (6A) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute; but subject to the result of such suit, if any, the order shall be conclusive.

(6E) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.

(7) If the proclaimed person does not appear within the time specified in the proclamation, the property under the attachment shall be at the disposal of Government; but it shall not be sold until the expiration of six months from the date of the attachment and until any claim preferred or objection made under sub-section (6A) has been disposed of under that sub-section, unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

NOTES

The attachment of property is intended to [enforce the attendance required by proclamation and it is most desirable that the two proceedings should be taken simultaneously. It is improper to wait till the period specified in the proclamation has expired and to order attachment because the proclamation has not been obeyed—6 C. p. 38.

Restoration of attached property If within two years from the date of the attachment, any person whose property is or has been at the disposal of Government, under sub-section (7) of S. 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the net proceeds of the sale, or if part only thereof has been sold, the net proceeds of the sale, and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

D. Other Rules regarding Processes

Issue of warrant in lieu of or in addition of summons S. 90. A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror or assessor issue, after recording its reasons in writing, a warrant for his arrest—

- (a) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court has reason to believe that he has absconded, or will not obey the summons ; or
- (b) if at such times he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

NOTES

Cl. (a)—A warrant cannot issue under this section unless the Court is satisfied that the summons which has been or may be issued has been or will be disobeyed.

Cl. (b)—A warrant ought not to issue unless it has been proved that the summons already issued was duly served in time.

The warrant under this section will ordinarily be bailable.

S. 91. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court.

S. 92. When any person who is bound by any bond taken under this Code to appear before a Court does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

S. 93. The provisions contained in this Chapter (i.e., Ch. VI Cr. P. C.) relating to a summons and warrant, and their issue, service and execution, shall so far as may be, apply to every summons and every warrant of arrest issued under this Code.

E Execution of Warrants for Recovery of Fine etc.

Under section 574 Cr. P. C., any money (other than a fine) payable by virtue of any order made under this Code, and the method of recovery of which is not otherwise expressly provided for, shall be recoverable as if it were a fine.—*P. Reg. (U. P.) para 261.*

Warrants for recovery of fines by attachment and sale of movable property should be executed in the following manner :—

- (i) Such warrants shall ordinarily be directed through the prosecuting Inspector to the Police officer in charge of the Circle, within which the property of the offender is situated, and may be endorsed by the station officer to any Police officer subordinate to him.
- (ii) Payment of the fine shall first be demanded from the person liable.
- (iii) If payment is made to the Police officer on demand the money shall be paid by him into the nearest treasury or sub-treasury, and the warrant returned to the Court with an endorsement of execution.
- (iv) If payment is not made at once, the Police officer bearing the warrant will attach the movable property of the person fined to an amount sufficient to liquidate the fine. He will then return the warrant to the Magistrate, after endorsing on it a note of what has been done.
- (v) If it is necessary to sell attached property, the sale will be made not by the police, but by the Nazir or Qurq Amin under the Magistrate's orders.—*P. Reg. (U. P.) para 262.*

When money is paid by a Police officer into a treasury or sub-treasury it should be sent with a pass book (High Court Form No. 3) and a separate extract therefrom in duplicate, respecting each item entered therein.

50 POLICE POWERS & DUTIES UNDER CR. P. C.

The officer in charge of the treasury or sub-treasury shall, on receipt of the money sign the pass-book and one of the extracts and return them.

The extract so returned shall be forwarded by the officer in charge of the police station to the Court which ordered the payment, or, if that Court be the Court of Sessions, to the District Magistrate.

On receipt of a pass-book extract from an officer in charge of a police station, the Magistrate will forward to such officer a Check receipt (High Court printed form part XVI, No. 3). The Check receipt may be prepared in English or in the Vernacular or both; but in any case the words and figures denoting the sum for which the receipt is being issued will be written on the receipt by the presiding officer of the Court with his own hand, and he must sign the receipt—*P. Reg. (U. P.) para 263.*

The execution of warrants for recovery of Municipal, Cantonment or notified area taxes, issued by a Magistrate or by a Cantonment or notified area committee is not a police duty. Under G. O. No. 2265/XI—644 D Dated 5-8-1909, this duty must be performed by a member of the Municipal Staff.—*P. Reg. (U. P.) para 266.*

CHAPTER IV

POWERS TO COMPEL THE PRODUCTION OF DOCUMENTS AND THINGS

A—Summons to produce

S. 94. (1) Whenever any Court, or in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a police station considers that the production of any document or other thing is necessary or desirable for the purpose of any investigation, inquiry, trial or other proceedings under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124 or to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the Postal or Telegraph authorities.

NOTES

Under this section the power to compel the production of any document or thing has been given to the officer in charge of a police station.

If a subordinate Police officer has the investigation of an offence in his hand and he considers the production of any document or thing necessary for the purpose of investigation, he should ask the officer in charge to issue an order to the person in whose possession the document or thing is believed to be.

Before issuing an order under this section, the officer in charge should first satisfy himself as to whether the production of the document or thing is necessary or relevant for the purposes of investigation—5 Rom L. R. 980.

The document or thing must be clearly specified in the order—16 C. W. N. 1078.

The person called upon to produce need not be a party to the proceeding—19 Cal. 52.

The provisions of this section apply to an accused also—37 M. 112 ; 15 Cal. 109 ; 19 C. 52; but in 12 C. W. N. 1016 and 38 C. 304 it was held, that this section does not refer to stolen articles or to any incriminating document or thing in the possession of an accused person. A search-warrant can be issued under S. 76 and the investigating officer can also search the house of the accused under the provisions of S. 165 or S. 166.

Punishment—Intentional omission to produce a document or thing is punishable under section 175 I. P. C.

S. 95. (1) If any document, parcel or thing in Procedure as to letters such custody is, in the opinion of and telegrams any District Magistrate, Chief Presidency Magistrate, High Court or Court of Sessions, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the Postal or Telegraph

authorities, as the case may be, to deliver such document, parcel or thing to such person as such Magistrate or Court directs.

(2) If any such document, parcel or thing is, in the opinion of any other Magistrate, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and detain such document, parcel or thing pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

NOTES

If a police officer investigating a case has to inspect any document or thing in the custody of the Postal or Telegraph authorities he should obtain from the District Magistrate an order for the production of such document or thing and in the meantime should request the Superintendent of Police to ask the Postal or Telegraph authorities to detain such document or thing pending the orders of the District Magistrate.

In Presidency towns power to cause search to be made for and to detain such document or thing is vested in the Commissioner of Police and the order for its production is to be taken from the Chief Presidency Magistrate.

The following instructions have been given by Government to the Postal Department (Vide Police Gazette of 18-3-1891) "Production of records before the Police":—

Records of a Post office should be produced, and information available in them should be given, on the written order of any Police officer who is making an investigation under the Code of Criminal Procedure; but only those entries in the record should be disclosed which relate to the person or persons accused of the offence under investigation, or which are relevant to that offence. In any other case the post master should, without delay, refer for

54 POLICE POWERS & DUTIES UNDER CR. P. C.

orders to the Postmaster-General, who will decide whether or not under section 121 of the Indian Evidence Act the information asked for should be withheld.

NOTE.—When the information asked for by a Police officer is not available in the records of the post office, the Police officer should be informed accordingly, irrespective of the question whether the information, if available, might or might not be given under the foregoing rule.

B.—Search-Warrants

S. 101. The provisions of sections 43, 75, 77, 79, 82, Direction etc of search- 83 and 84 shall as far as may be, warrants apply to all search-warrants issued under section 96, section 98, section 99A or section 100.

NOTES

S. 43	See page 2
S. 75	" " 35
S. 77	" " 37
S. 79	" " 39
S. 82	" " 39
S. 83	" " 40
S. 84	" " 40

A search-warrant under the Gambling Ac. (No. III of 1867) is governed by the Code, and may therefore be endorsed by a Police officer to whom it is directed to another duly empowered—30A. 60.

S. 96. (1) Where any Court has reason to believe Search-warrant for that a person to whom a summons document or things or order under section 94 or a requisition under section 95, sub-section (1) has been or might be addressed, will not or would not produce the document or thing as required by such summons or requisition.

or where such document or thing is not known to the Court to be in the possession of any person.

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection.

it may issue a search-warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(2) Nothing herein contained shall authorise any Magistrate other than a District Magistrate or Chief Presidency Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the Postal or the Telegraph authorities.

NOTES

Procedure in such cases.—If an officer in charge of a police station thinks that a person to whom an order under S. 94 has been or might be issued will not or would not produce the document or thing required by such order he should apply to the Court for the issue of a search-warrant under this section, unless he is of opinion that the delay in obtaining a warrant will frustrate the object of the search. In the latter case he should proceed under section 165 and search without warrant any place within the limits of his police station where he believes that such document or thing will be found.

Has reason to believe—This may be when the report of a police officer or some other credible information or a reasonable complaint has been received. Before issuing a warrant it is desirable to have the statement on oath of the applicant for such warrant—*S. A.L.J. 517*. It is illegal to issue a search-warrant without examining the complainant—*7 I. C. 895*; *32 I. C. 652*.

The power under this section is not to be used to enable the complainant to fish for evidences—*36 I. C. 591*. Under this section a general search is not permitted, but search for specific things—*32 I. C. 652*; *36 I. C. 591*; *41 C. 261*.

S. 97. The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend ; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

Power to restrict warrant

S. 98. (1) If a District Magistrate, Sub-Divisional Magistrate, Presidency Magistrate, or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property ;

or for the deposit or sale or manufacture of forged documents, false seals or counterfeits stamps or coins, or instruments or materials for counterfeiting coins or stamps for forging,

or that any forged documents, false seals, or counterfeits stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for forging, are kept or deposited in any place ;

or, if a District Magistrate, Sub-Divisional Magistrate or a Presidency Magistrate, upon information and after such inquiry as he thinks necessary has reason to believe that any place is used for the deposit, sale, manufacture or production of any obscene object such as is referred to in Sec. 292 Indian Penal Code or that any such obscene objects are kept or deposited in any place,

he may by his warrant authorise any Police officer above the rank of a constable

- (a) to enter, with such assistance as may be required such place, and
- (b) to search the same in manner specified in the warrant, and

- (c) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials or of any such obscene objects as aforesaid, and
 - (d) to convey such property, documents, seals, stamps, coins, instruments, or materials or such obscene objects before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and
 - (e) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, seals, stamps, coins, instruments, or materials or such obscene objects knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging or the said obscene objects to have been or to be intended to be sold, let to hire, distributed, publicly exhibited, circulated, imported or exported.
- (2) The provisions of this section with respect to—
- (a) counterfeit coins,
 - (b) coin suspected to be counterfeit, and

58 POLICE POWERS & DUTIES UNDER CR. P. C.

- (c) instruments or materials for counterfeiting coin, shall so far as they can be made applicable, apply respectively to
 - (a) pieces of metal made in contravention of the Metal Tokens Act, 1880, or brought into British India in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878.
 - (b) pieces of metal suspected to have been so made or to have been so brought into British India or to be intended to be issued in contravention of the former of those Acts, and
 - (c) instruments or materials for making pieces of metal in contravention of that Act.

NOTES

This section is more general in its term than section 96. As to what articles should or should not be seized depend on the discretion of the officer charged with the execution of the warrant. He may also arrest every person whom he finds in the place searched and privy to any of the unlawful acts specified in the section. A warrant under this section should be obtained when the police have to storm a den of notorious dacoits, robbers, thieves or coiners.

S. 99 A. (1) Where—

Power to declare certain publications forfeited, and to issue search-warrants for the same

whenever printed, appears to the Local Government to contain any seditious matter or any matter which promotes or is intended to promote feelings of enmity or hatred between different classes of his Majesty's subjects and which is deliberately and maliciously intended to outrage the religious feelings of any such class by

- (a) any newspaper, or book as defined in the Press and Registration of Books Act, 1867 or

- (b) any document,

insulting the religious beliefs of that class, that is to say, any matter the publication of which is punishable under Sec. 124 A or Sec. 153 A or Sec. 295 A of the Indian Penal Code, the Local Government may, by notification in the Local Official Gazette, stating the ground of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to His Majesty, and thereupon any Police officer may seize the same, wherever found in British India, and any Magistrate may by warrant authorise any Police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

(2) In Sub-section (1) "document" includes also any painting, drawing or photograph, or other visible representation.

C.—Disposal of things found in search beyond jurisdiction.

S. 99. When in the execution of a search-warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same, any Disposal of things found in search beyond jurisdiction of the things for which search is

made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate; and unless there be good cause to the contrary, such Magistrate shall make an order authorising them to be taken to such Court.

D.—Legality of search-warrants issued by unauthorised Magistrates.

1. If any Magistrate not empowered to issue a search-warrant under section 98 issues it, erroneously in *good faith*, his proceedings shall not be set aside merely on the ground of his not being so empowered. *See S. 529 (a).*

2. If any Magistrate not being empowered by law issues a search-warrant for a letter, parcel or other thing in the Post office or a telegram in the Telegraph Department, his proceedings shall be void. *See S. 530 (b).*

E.—Magistrate's power to direct search in his presence

S. 105. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

CHAPTER V

SEARCH

A—GENERAL PROVISION RELATING TO SEARCHES

1. Persons in charge of closed space to allow search

S. 102. (1) Whenever any place liable to search or inspection under this Chapter (Ch. VII Cr.P.C) is closed, any person residing in, or being in charge of such place shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

2. Procedure where ingress cannot be obtained

S. 102. (2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

3. Search of one's person

S. 102. (3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If such person is a woman, the directions of section 52 shall be observed.

4. Search to be made in presence of witnesses

S. 103 (1) Before making a search under this Chapter (Ch. VII CR.P.C) the officer or other person about to make it shall call upon two or more respectable

inhabitants of the locality in which the place to be searched is situate to attend and witness the search and may issue an order in writing to them or any of them so to do.

(2) The search shall be made in their presence, and a list of all things seized in the course of such search and of the place in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(3) The occupant of the place searched, or some person on his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request.
 Occupant of place searched may attend

(4) When any person is searched under section 102 Sub-section (3), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person at his request.

(5) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Indian Penal Code.

NOTES

Witnesses—It is obligatory on the officer about to search the place to call on and get two or more respectable inhabitants of the locality to witness the search, before he enters the place to be searched.

Respectable inhabitants—Men respectable and independent, i.e., those who would be impartial and can reasonably be relied upon.

Locality—It does not mean the same quarter of the town as the place which is to be searched.

It has been held in some cases that the fact that the witnesses are not men of the locality is immaterial if they are respectable men; and failure to call inhabitants of the locality does not make a search illegal—*2r M. 83; 23 M. L. J. 445.*

Occupant—Means a person residing in or being in charge of the place—*4 C. 350 (77).*

Search List—Under Sub-sections (2) and (4) it is necessary to prepare a search list and get it signed by the witnesses.

It is the duty of the prosecution to call the search witnesses to prove the search list and the recovery of articles from the place searched.

These provisions do not apply to searches under the Gambling Act (III of 1867—S. 5)-3 L. 459; nor to those under Bengal Excise Act=54 C. 601; nor to those under Sec. 15 of Opium Act=1927 R. 170; 6 Bom. L. J. 11.

Departmental Rule—*P. Reg. (U. P.) Ch. X, para 100*—A Police officer about to conduct a search under the Code of Criminal Procedure or any other law must before entering the place to be searched, satisfy the owner or occupier of the premises, if present and the witnesses called under Sec. 103 of the Code of Criminal Procedure, that neither he nor any other member of the search party, including the informer, if present, has any thing incriminating concealed about his person.

No informer should be allowed to enter a place which is to be searched unless it is impossible to dispense with his assistance.

Searches made under the Arms Act, Excise Act, Opium Act, or Code of Criminal Procedure may be made by day or night.

Searches under the Salt Act (XII of 1882) may be made only by day.

64 POLICE POWERS & DUTIES UNDER CR. P. C.

B—Search of a Place or Person

1. For search of a place entered by a person to be arrested—
See Sec. 47 page 9.
2. For procedure where ingress is not obtainable—*See Sec. 48 page 9.*
3. For search of an arrested person—*See Sec. 51 page 21.*
4. For search of a woman—*See Sec. 52 page 22.*
5. Search of a person wrongfully confined—

S. 100. If any Presidency Magistrate, Magistrate of the first class or Sub-Divisional Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom search warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

NOTES

See sec. 101 which makes the provisions of sections 83 and 84 applicable to warrants issued under this section—

The officer executing a search-warrant issued under this section is to make an entry of his actions in the General Diary and submit a separate report to the Magistrate who issued it.

C—Powers of the Police to search during Investigation.

(a) Within the limits of its own Circle.

S. 165. (1) Whenever an officer in charge of a police station, or a Police officer making an investigation has reasonable grounds for believing that anything necessary for the purpose of investigation into an offence which he is authorised to investigate may be found in any place within the limits of the police station of which he is in charge or to which he is attached, and that such

thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which the search is to be made, search or cause search to be made, for such thing in any place within the limits of such station.

(2) A Police officer proceeding under sub-section (1) shall, if practicable, conduct the search in person.

(3) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may after recording in writing his reason for so doing require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing specifying the place to be searched and so far as possible the thing for which the search is to be made and such subordinate officer may thereupon search for such thing in such place.

(4) The provisions of the Code as to search-warrants and the General provisions as to searches contained in section 102 and section 103 shall so far as may be, apply to a search made under this section.

(5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence, and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate.

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of costs.

NOTES

The powers of search given to a Police officer under this section is incidental to the conduct of investigation into an offence which he is authorised by law to investigate.

Who may Search—under this section a search without warrant may be made by (a) an officer in charge of a police station, (b) a Police officer making an investigation, or (c) a subordinate Police officer armed with an order in writing from an officer of the description mentioned in (a) and (b).

S. 166. (3) authorises a Police officer under certain circumstances to make a search within the limits of another police-station.

In every case of search under this section, the reasons for search, are to be recorded concisely but explicitly as specifying in such writing, so far as possible the thing for which search is to be made. This should be done before the officer in charge of the investigation proceeds to search or issues an order in writing to his subordinate.

This section is not restricted to a search for what is stolen and believed to be stolen property, but permits a Police officer to make a search of any thing necessary for the purposes of an investigation into an offence—²³ A.L.J. 1037=A.I.R. 1926 All. 147.

The deputation of a subordinate Police officer by the officer in charge or the investigating officer must be by an order in writing.

Sub-Section (5)—A copy of the recorded reasons for search should be sent forthwith to the Magistrate empowered to take cognizance of the offence. The failure in this respect will be considered a serious dereliction of duty.

(b) Within the Limits of another Circle

S. 166. (1) An officer in charge of a police station or a Police officer not being below the rank of a sub-inspector making an investigation may require an officer in charge of another police station whether in the same or a different district to cause a search to be made in any place, in any case in which the former officer might cause search to be made, within the limits of his own station.

(2) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

(3) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police station or a Police officer making an investigation under this Chapter to search, or cause to be searched, any place in the limits of another police station in accordance with the provisions of Sec. 165 as if such place were within the limits of his own station.

(4) Any officer conducting a search under sub-section (1) shall forthwith send a notice of the search to the officer in charge of the police station within the limits of which such place is situate and shall also send with such notice a copy of the list if any prepared under S. 103, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in section 165 sub-section (1) and (3).

68 POLICE POWERS & DUTIES UNDER CR. P. C.

(5) The owner or occupier of a place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (4).

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of costs.

NOTES

It shall be noticed that under S. 166 as amended by the addition of sub-clause (3), an officer in charge of one police station, under circumstances mentioned in that sub-section, is authorised to search or cause to be searched any place within the limits of another police station in accordance with the provisions of section 165 as if such place were within the limits of his own station.

The powers under sub-section (3) are to be exercised only in cases of urgency.

Sub-section (4) provides a safeguard by requiring the officer proceeding under sub-section (3) to notify the search to the officer in charge concerned and the nearest Magistrate empowered to take cognizance of the offence.

D.—General Instructions

(See—Warner's "Practical Methods in Police work"
p. 219-229.)

Necessity for searches may arise at any stage of an investigation. The investigating officer should be discreet in exercising his powers to search and see that there are reasonable grounds for this action. Searches made at random or on indefinite information do not prove any useful purpose and bring about unpopularity.

When such necessity arises, no time should be lost in making arrangements to conduct the search as the culprits may find an opportunity to escape or remove property.

The investigating officer should have as complete an idea as possible of the person for whom or the property for which he is about to make a search and should have their descriptive rolls with him.

Searches may be made at any time. Except in cases under the Salt and Opium Acts searches can be made at night as well. Unless there is risk of removal of the property when it will of course be unavoidable, a search should be postponed till sunrise. In this event intelligent watch over the house prior to search will be advisable.

Prior to search, or prior to arrest under S. 47 Cr. P. C. the Police officer should obtain some knowledge of the geography of the place beforehand. He should guard against escapes by back doors, roofs, walls or windows. Concealment in chimneys, under-ground rooms, or cavities in walls, floor etc. should be watched for. Concealments are sometimes effected under bundles of clothing, of grass etc. etc.

Instruments should be taken to enable search to be made—such as sticks for lifting up grass etc.

The house and all its outlets should be guarded with a view to prevent unauthorised persons from approaching, and in the case of property that the inmates may not succeed in throwing out what is wanted by the police.

A reliable female searcher should accompany the party to ensure that the person to be arrested does not take advantage of the facilities given to pardanashin women to withdraw or remove property.

When simultaneous searches or arrests are called for in several houses or in several villages separate parties in charge of separate officers require to be sent off.

70 POLICE POWERS & DUTIES UNDER CR. P. C.

Clear orders and definite instructions are to be given to the officer incharge of each party according to the circumstances of each case. Descriptive rolls of persons and property to be arrested and searched for will have severally to be furnished.

Unnecessary violence should studiously be avoided. Courtsey will often go to obviate unpleasant incidents.

News of intention to arrest should not be permitted to leak out.

An investigating officer making a search or arrest should be in uniform, and should carry his revolver. If obstruction to entry be apprehended, the police should take with them implements necessary to force an entrance.

Personal search is called for by law immediately on arrest. It should be thorough. The person arrested may have some article of self-destruction such as poison etc., or any incriminating article on his person. He should be disarmed if he is in possession of any offensive weapon.

Where the offender is known or suspected to belong to a criminal caste, search should be even more penetrating than usual. Such persons are apt to conceal incriminating articles in cavities of their mouths, throats, armpits and private parts. Secret pockets are often concealed in their garments and in their foot-gear etc. if search be not immediate the property may be got rid of.

- I.** The investigating officer, before entry, should inform the owner or occupier of the house of his intention to search, failing the production of the article required. If produced, there will be no necessity for search; but if it is not, the search must take place with or without permission.
- Procedure to be followed where search is to be made

2. Respectable and impartial witnesses, preferably literate ones, resident if possible of the locality should be selected as search witnesses.

3. Before entering the house, its owner or occupier or his representative should be permitted to search the person of the members of the search party who are to go inside the house. The complainant or the informer should not be allowed to go inside the house, unless his presence is indispensable to identify property or to point out the place of its concealment. In the latter case, the occupier of the house should be allowed a thorough search before allowing him admittance.

4. The investigating officer should be alert and see that there is no secret introduction of any incriminating articles into the house by any member of the searching party or by enemies of the occupants.

The search witnesses must actually be the eyewitnesses to the whole search, and must be able to see clearly where each thing is found.

The movements of the inmates of the house should closely be watched and observed. Their demeanour and facial expression may indicate those places where search should be made.

During the search no mischief should be done to the property of the occupant of the house, nor should their feelings be wounded in any way.

It is difficult to give a list of all places where stolen property may be concealed, but the following are some of the favourite places in this country in the *interiors*:—

- (1) walls and floors of houses,
- (2) the floor under the fire-place,
- (3) the thatch,

72 POLICE POWERS & DUTIES UNDER CR. P. C.

- (4) the zenana floor,
- (5) drains or pools containing dirty water,
- (6) earthen stoves or cooking utensils,
- (7) heaps of cow-dung cakes and fuel wood,
- (8) bhusa and fodder for animals,
- (9) cavities under tiles,
- (10) Worshipping places and cupboards containing images of deities,
- (11) rolls of bedding.

Places where stolen property is walled up or buried are generally concealed from view under boxes or other articles. Such places call for careful scrutiny. Indications of freshness and inequality or plastering, etc., should be looked for.

The favourite places for concealment of property in the open place :—

- (1) wells or ponds containing water,
- (2) heaps of dirty or dung kept for manure,
- (3) hollows or roots of trees,
- (4) ruined mosques, temples or other buildings,
- (5) crevices of old bridges,
- (6) beds of a stream or skirts of jungles,
- (7) the corner of a field belonging to the suspect or some one on friendly terms with him,
- (8) bushes outside suspect's house etc.

Search is sometimes necessary in river boats and technical knowledge of a boat will do much to assist discovery. Particular attention should be paid to (1) the roof, (2) hollows of bamboos, (3) hollows of the mast or in the mast hole, (4) any strings suspected from or near the boat—when not attached to the boat, cork floats are often used to mark the places where property has been sunk.

CHAPTER VI

SECURITY PROCEEDINGS

I. SECURITY TO KEEP THE PEACE

Security to keep the peace can be taken either under section 106 or under section 107 Cr. P. C.

Distinction between Ss. 106 and 107.

1. Under S. 106 a person can be bound for a period which may extend to *three* years, while under S. 107 security is taken only for *one* year.
2. Order under S. 106 can be passed only on conviction of the accused for any of the offences under the Penal Code as mentioned in that section, while separate proceedings are taken for action under S. 107.

A. Security on conviction

S. 106. (1) Whenever any person accused of any offence punishable under Chapter VIII of the Indian Penal Code, other than an offence punishable under section 143, section 149, section 153-A, or section 154 thereof or of assault or other offence involving a breach of the peace, or of abetting the same, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, or Court of Sessions or the Court of a Presidency Magistrate, a District Magistrate, a Sub-Divisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

- (4) the zenana floor,
- (5) drains or pools containing dirty water,
- (6) earthen stoves or cooking utensils,
- (7) heaps of cow-dung cakes and fuel wood,
- (8) bhusa and fodder for animals,
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- (8) bushes outside suspect's house etc.

Search is sometimes necessary in river boats and technical knowledge of a boat will do much to assist discovery. Particular attention should be paid to (1) the roof, (2) hollows of bamboos, (3) hollows of the mast or in the mast hole, (4) any strings suspected from or near the boat—when not attached to the boat, cork floats are often used to mark the places where property has been sunk.

CHAPTER VI

SECURITY PROCEEDINGS

I. SECURITY TO KEEP THE PEACE

Security to keep the peace can be taken either under section 106 or under section 107 Cr. P. C.

Distinction between Ss. 106 and 107.

1. Under S. 106 a person can be bound for a period which may extend to *three* years, while under S. 107 security is taken only for *one* year.
2. Order under S. 106 can be passed only on conviction of the accused for any of the offences under the Penal Code as mentioned in that section, while separate proceedings are taken for action under S. 107.

A. Security on conviction

S. 106. (1) Whenever any person accused of any offence punishable under Chapter VIII of the Indian Penal Code, other than an offence punishable under section 143, section 149, section 153-A, or section 154 thereof or of assault or other offence involving a breach of the peace, or of abetting the same, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, or Court of Sessions or the Court of a Presidency Magistrate, a District Magistrate, a Sub-Divisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding *three* years, as it thinks fit to fix.

(2) If the conviction is set aside on appeal or otherwise, the bond so executed shall become *void*.

(3) An order under this section may also be made by an Appellate Court including a Court hearing appeals under section 407 or by the High Court exercising its powers of revision.

NOTES

Order under this section can be passed on conviction of the following offences of Chapter VIII of the Penal Code, viz., Sections 144, 145, 147, 148, 151, 152, 153, 155, 156, 157, 158 and 160.

Section 149 does not create any substantive offence—3 Pat. 870.

Assault refers to what is defined in S. 351 I. P. C.—71 I. C. 691.

The words 'other offences involving breach of the peace' refer to offences in which according to Calcutta and Madras High Courts a breach of the peace is an *essential* and *necessary* ingredient, and not to offences which merely provoke or are likely to lead to a breach of the peace—30 C. 366 ; 35 C. 315 ; 29 M. 190 ; 29 M. 469 ; 47 M. 846 (848) ; see also 2 Lah. 279.

But according to the Bombay High Court these words include offences which are offences because a breach of the peace is likely to occur—48 B. 554 (dissenting from 30 C. 366 and 26 M. 469).

The Allahabad High Court likewise holds that the words 'involving' connotes inclusion not only of a *necessary* but also of a probable feature, circumstances, antecedent condition or consequence—33 A 771 (dissenting from 30 C. 93, 30 C. 366 ; 35 C. 315 and 29 M. 190) ; 42 A. 345=18 A. L. J. 300.

Procedure where a Police officer desires an order u/s 106.

When a Police officer is submitting a report for the prosecution of a person for an offence contemplated by this section, he should,

if he is of opinion that the accused should be bound down under S. 106, make a request to that effect in his report.

B. Security for keeping the Peace in other cases

S. 107. (1) Whenever a Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate, if in his opinion there is sufficient ground for proceeding, may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period, not exceeding one year as the Magistrate thinks fit to fix.

(2) Proceedings shall not be taken under this section unless either the person informed against or the place where the breach of the peace or disturbance is apprehended, is within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken before any Magistrate, other than a Chief Presidency or District Magistrate, unless both the person informed against and the place where the breach of the peace or disturbance is apprehended, are within the local limits of the Magistrate's jurisdiction.

(3) When any Magistrate not empowered to proceed under sub-section (1) has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, and that such breach of the peace or disturbance cannot be prevented otherwise than by detaining such person in custody, such

Magistrate may, after recording his reasons, issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case, together with a copy of his reasons.

(4) A Magistrate before whom a person is sent under sub-section (3) may in his discretion detain such person in custody pending further action by himself under this Chapter (i.e. Ch. VIII Cr. P. C.).

NOTES

Action u/s 107 when necessary

The necessity of initiating proceedings under this section arises, when there are such disputes between two parties about land, water, religion or other reasons, as are likely to result in a breach of the peace.

The word 'likely' means that there must be something more than a mere possibility—*20 W. R. 57.*

Enmity due to litigation

The mere existence of enmity due to litigation is not a sufficient ground for binding the parties, but where there are two parties on the worst of terms and there is a danger of the breach of the peace in consequence, it is proper that both of them should be bound over—*See 63 I. C. 829 (A).*

Cases of land disputes

In cases of land disputes, where the dispute is a *bona fide* one, action under Sec. 145 Cr. P. C. is the more suitable remedy; but if there is no such dispute and there is a likelihood of a breach of the peace, action under this section is proper—*See 1 Pat. L. J. 681; 62 I. C. 590; 32 C. L. J. 54; 36 A. 143.*

In cases of disputed possession about land where one party is in possession, and the other party threatens to disturb his rights and take forcible possession likely to lead to a breach of the peace, Sec. 145 has no application and it will be proper to proceed under

S. 107—6 Pat. L. J. 766=90 I. C. 442; 35 C. 117; 25 C. 559; 1922
P. 241.

Action to be taken by the Police

The officer responsible for the administration of the Thana, on receipt of information that some person or persons are likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace, should proceed to the spot to make inquiries into the case.

No case diary is to be opened in cases of an inquiry for action under Sec. 107.

The result of the inquiry is to be briefly recorded in the General diary kept at the Thana.

If on inquiry, it appears to him that there is a likelihood of a breach of the peace, he should prepare and submit a report to the Magistrate empowered to take action under this section, with a request that the persons responsible may be bound down to keep the peace.

Contents of Police Report

The report should contain the following facts :—

(1) Brief causes of the dispute, from which a breach of the peace is apprehended.

(2) If the dispute is in connection with religion, land, water, building, markets, fishries, crops or other produce of land, the name and address of the party claiming possession or any interest in the matter in dispute.

In such cases the officer submitting the report should mention the person in actual possession and recommend for an action under this section against the person who is to take an aggressive part to gain forcible possession and thereby occasion a breach of the peace.

In cases of religious disputes, the report should mention the custom prevailing in previous years.

(3) The grounds for believing that the alleged dispute between the parties is likely to lead to a breach of the peace.

(4) The name or names of the persons against whom action under section 107 is to be taken. The list should also include the names of agents, servants or partisans of the principal accused who are likely to take part in the commission of a breach of the peace.

(5) The names of such witnesses as are likely to give evidence regarding the causes of dispute, and of a likelihood of a breach of the peace being committed by the parties.

All documentary evidence such as copies of previous reports made by the parties against each other should be attached and submitted. The names of the Head Moharrirs who recorded those reports, or other persons proving them should be included in the list of witnesses.

Cases under S. 107 Cr. P. C. against two factions are tried separately. Therefore one party is a competent witness against the other to establish enmity and other facts from which it may be inferred that a breach of the peace might occur.

(6) In cases of disputes likely to lead to a breach of the peace, the police officer should not neglect to consult the Village Crime note-book part IV. If there is any relevant entry in connection with that dispute, he should make a mention of it in his report and the measures which had been previously adopted to meet the situation together with its result.

II. Security for Good Behaviour

Proceedings for demanding security for good behaviour are instituted under sections 108, 109 and 110 Cr. P. C. The last two sections are in constant use by the Police.

1. Security from persons disseminating seditious matter

S. 108. Whenever a Chief Presidency or District Magistrate, or a Presidency Magistrate or Magistrate of the first class specially empowered by the Local Government in this behalf, has information that there is

within the limits of his jurisdiction any person who within or without such limits either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in anywise abets the dissemination of,—

- (a) any seditious matter, that is to say, any matter the publication of which is punishable under section 124 A of the Indian Penal Code, or
- (b) any matter the publication of which is punishable under section 153A of the Indian Penal Code, or
- (c) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code.

such Magistrate if in his opinion there is sufficient ground for proceeding may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without securities for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under and edited, printed and published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867, with reference to any matter contained in such publication except by the order or under the authority of the Governor-General in Council or the Local Government or some officer empowered by the Governor-General in Council in this behalf.

NOTES

Under this section the evidence of disseminating seditious matter is necessary. Mere writing or printing is not sufficient—47 Bom. 438. The prosecution must show that the accused would

continue to act in the way he had done and the words used by him won't cover a single act—1928 A 344.

The test is whether the person proceeded against has been disseminating seditious matter and whether there is a fear of the repetition of such offence—11 Bom. L. R. 743=10 Cr. L. J. 279.

The preaching of *Swaraj* by constitutional means is not within this section—19 Bom. L. R. 211=39 I. C. 807 Bs. 34 C. 991.

In order to justify an order Sec. 108 (b) the Court must find intention—54 C. 59 ; 1926 C. 1133.

The Press and Registration of Books Act (XXV of 1867) was amended by Act No. XIV of 1922.

Joint Trial

Two or more persons can be dealt with in the same inquiry *only* when they are jointly concerned in the act alleged regarding the dissemination of such matters as are contemplated by the section.

B. Security from Vagrants and Suspected Persons

S. 109. Whenever a Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class receives information—

(a) that any person is taking precaution to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precaution with a view to committing any offence, or

(b) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, such Magistrate may, in manner hereinafter

provided, require such person to show cause why he should not be ordered to execute a bond, with sureties,

for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

NOTES

S. 109 is analogous to S. 24 of the Criminal Tribes Act and the latter applies in the case of a registered member of a Criminal Tribe, when he is taking precautions to perpetrate the offence of theft or robbery.

In this connection it is as well to quote the Criminal Tribes Manual : "Prosecutions under the preventive sections of the Criminal Procedure Code will seldom be necessary, as conduct calling for such action is a practical impossibility without infringing the provisions of S. 10 (b), in which case a prosecution under S. 22 Cr. T. Act, is easier and more effective than sections 109 and 110 Cr. P.C."

An action under *Clause (a)* is good when a person is found at an unusual time in suspicious circumstances at a place where he has no business to go or remain at that time, and is unable to furnish a reasonable explanation of his presence, or on being questioned gives false names and addresses, or on being challenged by a Police officer or any other person tries to run away, or is found in possession of such articles (e.g., implements of house-breaking) as are meant to commit any offence.

An Action under this section is bad (*a*) when there is a momentary effort at concealment to avoid detention or arrest.—1925 Cal. 616 (618); 39 C. 456; 41 I. C. 649.

(*b*) When a person gives a false name in the first instance and a correct name afterwards and there is no evidence to show that he was taking precautions to commit an offence—21 A. L. J. 847, *see also* 97 I. C. 428 (A).

(*c*) When it has only been proved that the person proceeded against is penniless and out of work and there is no evidence that he is living by dishonest means—53 Cal. 345=43 C. L. J. 202.

(d) When a person has no house to live in and is maintaining himself as a coolie working on such jobs as he may get off and on—⁴¹ C. L. J. 142=86 I. C. 666.

The words "give a satisfactory account of himself, in Cl. (b) do not mean that a person spends his leisure moments in a satisfactory manner—⁸ A. L. J. 798.

Smart arrests resulting in conviction under this section may appropriately be rewarded—*Pol. R. (U. P.) para 436 (3)*.

C.—Security for Good Behaviour from Habitual Offenders

S. 110. Whenever a Presidency Magistrate, District Magistrate, or Sub-Divisional Magistrate or Magistrate of the first class specially empowered in this behalf by the Local Government receives information that any person within the local limits of his jurisdiction—

- (a) is by habit a robber, house breaker, thief, or forger ; or
- (b) is by habit a receiver of stolen property knowing the same to have been stolen ; or
- (c) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property ; or
- (d) habitually commits, or attempts to commit or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Indian Penal Code, or under section 489A, section 489B, section 489C or section 489D of that Code, or
- (e) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace ; or

- (f) is so desperate and dangerous as to render his being at large without security hazardous to the community;

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix.

NOTES

1. Object of the section—

By the provisions of this section the intention of the Legislature is to secure the well being of society, to prevent the person and property of the community against the depredations and misdeeds of habitual offenders and persons of desperate and dangerous character; and to bring about the reformation of their criminal habits by the imposition of certain penal conditions as prescribed by the law. The various decisions of the different High Courts are unanimous on the point that the object of taking security for good behaviour is the prevention and not the punishment of crimes and is meant to ensure the good conduct of bad characters out of jail.

Mr. Warner in his 'Practical Methods in Police Work', says: "The provisions of this section furnish a very strong weapon in the hands of the police and the Magistracy, who are responsible for successful criminal administration. Care must be taken that this weapon be in no way allowed to become a source of oppression by taking proceedings against innocent persons. Intentional misuse of this great power is sure to bring discredit on

the whole force and is likely to produce grave dangerous consequences."

2. Considerations in sending up 110 cases—

The police should send up to Court only those cases of Sec. 110 in which there is a reasonable hope of success. Mr. Warner in his book on p. 126 says : "Common experience proves that nothing more injuriously affects the administration of a Thana, or to a greater degree lessens the prestige of the police in the eyes of the criminals than non-success in Badmashi cases. The evil does not end here. It increases crime and the difficulty of the police ; and consequently the work of the police. Special attention should therefore be paid in making necessary selection of persons and cases for prosecution. Only sufficiently strong cases should be taken up. Weak cases in which there is no reasonable hope of success should never be touched."

3. Procedure to be adopted—

Before a Sub-inspector takes action under Sec. 110 Cr. P. C. he should submit an application in police form No. 5, through the Circle Inspector to the Superintendent. The Circle Inspector will forward the application to the Superintendent without delay with a report written after local inquiry from his own knowledge of the suspect. If the Superintendent approves of the report he may forward it to the Sub-Divisional Magistrate or District Magistrate as the "information" under Sec. 110 Cr. P.C. If the Magistrate deems it necessary to require any person to show cause under S. 110 Cr. P.C. he will make an order in writing under Sec. 112, setting forth the details

required by that section and will return form No. 5 to the Sub-inspector who will take immediate steps to arrest the person and to produce him before the Magistrate with the necessary evidence. Form No. 5 will be sent to the prosecuting officer as his brief in the case and may be attached to the file if the Magistrate sees fit. History sheets will not be sent to Courts as a matter of course but only when Courts ask to see them. No statements should be recorded by the police when they are making inquiries for the purpose of action under Sec. 109 or 110 Cr. P. C. If such statements are recorded the accused may be able to obtain copies of them under Sec. 162 Cr. P.C.—*Police Reg. (U. P.) Ch. XIX para 227.*

Similar are the provisions in other Provinces.

4. Action against members of a gang—

Joint trial of several persons who form a gang and are jointly concerned in the commission of offences, e.g., theft, robbery, or extortion etc., is permissible in law (1 A. L. J. 144; 88 I. C. 274; 86 I. C. 274; 65 I. C. 484). To check the activity of such a gang it is not necessary to proceed against all the members of it. Leaders and active members of the gang should only be selected and proceeded against.

In the course of ordinary investigations many dangerous bad character who have no History sheets newly come to the knowledge of the investigating officer. To prevent crime it is often unsafe to delay action and a Police officer should take immediate steps to nip the dangerous new gang in the bud. The measure being a

preventive one, he should not wait for the crime to increase till action is taken.

5. Preparation of the case before the submission of report to S. P.—

In preparing Badmashi cases assistance should invariably be taken from History sheets (Part V. Village Crime Note Book) if such are in existence. Its relevant entries showing the criminal habits of the accused should be noted and a list should also be made of persons who have a direct and first hand knowledge of the facts contained therein so that they may be produced in evidence.

A copy should be made of all Reports from the General Diary in which the accused was concerned in the commission of the reported crimes.

All relevant entries from Case Diaries of those cases in which the accused had been suspected of having been concerned in the commission of offences should be noted.

A note should also be made of all confessions recorded in previous cases in which the accused had been named by the confessing accused of that case.

A list should also be made of all such other evidence as has been described under the heading "Evidence in Two Cases".

6. Submission of Report to S. P.—

A list of all such evidence (both oral and documentary) as has been mentioned above should be made and submitted with a report under a confidential cover to the Superintendent of Police through the Circle Inspector

as required by the Rule given above. Such a step will furnish sufficient information to the superior officer to decide whether on the merits of the case, sanction to prosecute should or should not be accorded.

7. *Secrecy to be observed*—

When a Police officer proposes to take action under Sec. 110 against any person or persons he should observe strict secrecy of his action before the arrest of the accused. Once a bad character gets a wind of the impending prosecution, he will either overawe all possible witnesses or he would abscond and would thus defeat the ends of justice.

8. *Action after the approval of his Report by S. P.*—

After the approval of the proposed action by the Superintendent of Police, the officer concerned in the investigation of such a case, should arrest the accused, take such other evidence as may be obtainable in support of the case and then submit his report to the Court concerned for action under Sec. 110.

9. *Joint Inquiry*—

Separate proceedings should be taken against each person required to furnish security under this section unless it is clear that there is such a connection between the several accused as would indicate the necessity of a contrary course.

In order to justify a joint trial of two or more persons the evidence must point to their habitual association in crimes i.e., the evidence must show that they were jointly

concerned in the commission of offences, e.g., theft, robbery or extortion etc. 6 P. L. J. 810=86 I. C. 274 (Pat.) ; 1 A. L. J. 144 ; 65 I. C. 484 ; 88 I. C. 282.

In *Angnoo Singh and others v. Empr.*—20 A.L.J. 881 Walsh J. held, that proceedings against a man for *badmashi* should be confined to him alone unless the case is that he has got a confederate or partner to whom all the evidence is equally applicable—See also 12 A. L. J. 841.

10. Evidence in 110 Cases—

The fact that a person who is an habitual offender or is so desperate or dangerous as to render his being at large without security hazardous to the community, may be proved by evidence of general repute or otherwise—S. 117 (4).

“General repute” is the reputation which a person bears in the place in which he lives. It includes what is generally said of him in the neighbourhood.

Evidence of general repute by persons who have no personal knowledge of the accused and know nothing of his business and circumstances is not sufficient—35 A. 109.

It must be of persons.

- (a) who are acquainted with the accused.
- (b) who live in the neighbourhood ; and
- (c) are themselves aware of the accused's reputation.

See—81 I. C. 633; 29 I. C. 825.

When questioned about the source of their knowledge they should be able to answer that the accused is

frequently absent from his house at nights, associates with bad and suspicious characters, wanders about at unusual places and times; extorts money from people and so forth.

A Police officer who deposes as to the reputation of the accused should give the basis of the knowledge and point out how he came to consider him a bad character.

11. *Type of witnesses—*

They should be men of different communities. The evidence of those from the community of the person proceeded against and his neighbours is more effective — 8 A. L. J. 1114; 35 A. 109; 1925 Oudh 473.

Witnesses should not be selected only from the village or *Mohalla* of the accused, but also from neighbouring villages or *Mohallas*.

They themselves should be of good repute and respectability— 29 I. C. 825; 8 I. C. 249.

They should also be free from the suspicion or grudge against the accused; and there should be no special motive to prompt them to give evidence against him.

12. *Facts which may be proved—*

Previous convictions are admissible in evidence under section 54 of the Indian Evidence Act, but they are not conclusive proof, nor is it an essential element for a proceeding under this section. Its evidentiary value increases when there is also evidence of general repute or of definite acts subsequent to the accused's release from jail. These two kinds of evidence will establish the fact that he is continuing in or has reverted to his former mode of life.

Accused persons are sometimes discharged or acquitted by courts or released by a Police officer under section 169 for insufficiency of evidence. The evidence that may have been insufficient for a conviction for a substantive offence would be of value in a *badmashi* case to prove the accused's bad character and can be produced.

In *Budhan v. Empr*:—47 A. 733=23 A. L. J. 507. Boys and Banerji JJ. held that evidence to show that the accused was concerned in the commission of a substantive offence is admissible in security proceedings.

In *Gudri Khotik v. Empr*: 77 I.C. 886—Daniels J. said, "While evidence that the accused persons have been suspected in particular cases of theft is clearly not evidence on the basis of which they could be bound over, yet when evidence of general repute has been given the fact that the accused have been suspected in a large number of cases may be admissible as corroboration. See also A. I. R. 1924 (Oudh) 112=77 I.C. 886. This view is also supported by other decisions.

Such suspicion should be proved by those witnesses who are in possession of such facts as furnished them with definite reasons for believing that the bad character must have been concerned in the commission of a crime.

These facts as has been observed by Mr. Warner in his "Practical Methods in Police Works" may be :—

(1) Presence of the suspect in the locality previous or subsequent to the occurrence.

- (2) Identity of any property, left behind by the culprit at or near the scene of occurrence, as belonging to the accused.
- (3) *Modus operandi* or method of the commission of crimes.
- (4) Confession by an accomplice implicating the accused.
- (5) Identification of the suspect by complainant or other persons.
- (6) His extravagant habits soon after the occurrence of crime.
- (7) Recovery of suspicious property from his house on search.
- (8) Existence of marks of injury alleged to have been caused in a fight between the complainant and himself.
- (9) His absconding soon after the commission of crime (when people began to suspect him).
- (10) Identity of foot prints with those found on the scene of occurrence etc. etc.

The History sheet is a privileged document and is not produced in evidence. Its History Sheet relevant entries are proved by the evidence of persons who have direct and first hand knowledge of them—See 57 I. C. 940 ; 52 I. C. 657 ;

In 31 Cr. L. J. 1930 page 302 (A)—*Emperor v. Qudua Bari*—Young and Sen JJ. observed as follows :—

The maintenance of a History sheet may have its uses and a History sheet may in some cases form good

evidence against the accused. But there is much difficulty in treating it as evidence against the accused as in many cases it turns out that the History Sheet is no more than an *ex parte* proceeding and that the accused does not know upon what ground the History Sheet has been opened against him nor does he know what facts it contains."

Accused's association with bad character It can be proved by the evidence of persons who have seen him in company of other *badmashes*, and by the fact that the co-accused in such and such cases was associated with other persons of notorious character and was acquitted or convicted as the case may be.

Fluctuation of crimes corresponding with the period when in Jail or outside If the accused is an ex-convict the officer in charge of the police station can also put evidence and prove a statement showing a marked decrease in crimes when the accused was in Jail and a marked increase when he was outside. Such a statement can be prepared from the Crimer Register maintained at the Thana.

Absence of the Accused This can be proved by the evidence of his neighbours, the chaukidar and the Mukhia specially at night of the village.

His mode of living The fact that he lives by dishonest means, or that he has no means of livelihood, or that the manner of his living is in excess of his means can also be proved. The Patwari, or the Mukhia, or other respectable persons of the village can prove these facts.

CHAPTER VII

DISPERSAL OF UNLAWFUL ASSEMBLIES

(CH. IX CR. P. C.)

S. 127. (1) Any Magistrate or officer in charge of a Assembly to disperse police station may command any on command of unlawful assembly or any assembly Magistrate or of five or more persons likely to Police officer cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

(2) This section applies also to the police in the town of Calcutta.

NOTES

Unlawful assembly has been defined in S. 141 I. P. C. Processions organised contrary to Police Act (S. 30) may be ordered to disperse—1927 P. 191.

The penalty for disobedience has been provided by Ss. 145 and 151 I. P. C.

S. 128. If, upon being so commanded, any such Use of civil force to assembly does not disperse, or if, disperse without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a police station, whether within or without the presidency towns may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier of Her Majesty's Army or a volunteer enrolled under the Indian Volunteers Act 1869, and acting as

such, for the purpose of dispersing such assemblies, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

NOTES

Magistrates who have occasion to give directions in a riot or affray, to police, should communicate their orders to the police through the Police officer in command—*P. Reg. (U. P.) para 65.*

Before proceeding to disperse an unlawful assembly by force, sufficient warning should first be given.

The following instructions govern the deputation of armed police on occasions of religious ceremonies, and the action to be taken when the police are called upon to suppress a disturbance :—

(1) Ordinarily, police armed with fire arms should not be used on occasions of processions and other ceremonies, except as a reserve force to deal with possible disturbance. The position such reserve force should take will be governed by special circumstances and the instructions given below :—

(2) Bodies of armed police should never escort processions. They should be at points where there is a danger of disturbance or should be held in reserve as a moving picket either in front or in rear of the procession where they are in the least danger of being thrown into confusion by the mob, and can be kept under the control of the officer in command and of their petty officers. The officer in command of an armed force on such occasion should be carefully selected. As far as possible these guards should consist of both Hindus and Mohammedans in normal proportions. The proportion of petty officers to men should be as high as possible. Only buck shot ammunition should be served out. Unless there are special reasons to the contrary, Circle Inspectors and all Civil Police Sub-inspectors with parties of Civil police on duty with procession should be mounted.

(3) It is the duty of the Superintendent of Police on the occasion of all such deputations of both armed and Civil police to assign the duties which officers and men have to perform. Clear,

general and special orders should be drawn up and communicated, showing definitely the positions of each body of police, the duties they have to perform, under whose orders officers will act, and so forth. Such orders should be made out for all occasions, when police are employed to control processions and ceremonies, and should remain on record for future guidance.

When for any reason it is found necessary to depute police for the first time, or to augment the strength usually employed, it is imperative that special orders on these lines should be drawn up and communicated.

(4) On all such occasions, when armed police are deputed at head quarters, unless there are good reasons to the contrary, the Superintendent should be present and in direct control, and ordinarily a gazetted officer or the reserve inspector should be in command of an armed force used at head quarters. In the rural area it is obviously impossible to follow these directions, and those in the previous paragraph, on all occasions; but so far as the strength of the District staff permits they should be followed, and it is invariably the duty of the Superintendent to satisfy himself that the officer who will have control over, or command, the armed police is sufficiently responsible.

(5) When in the exercise of powers given by section 128, Code of Criminal Procedure, a Magistrate, an officer in-charge of a police station or a Police officer of higher rank engaged in dispersing an unlawful assembly is compelled to direct the police acting under him to use their fire-arms, he shall give beforehand to the mob full warning that fire will be effective and that blank cartridges will not be used. It is unnecessary to emphasise either the need for exercising or the difficulties in maintaining proper "fire-control", but in all cases in which armed men are used to suppress disorder, explicit instructions should be given to them that they must not open fire until definitely ordered to do so by their officers, unless they find themselves cut off from their officers and in danger, and have to fire in self-defence. Ordinarily firing should be by volleys, and as far as possible before firing is resorted to, or the actual orders given, all petty officers should be told the number of

volleys to be fired. Only one volley should be ordered at a time, except in cases of extreme urgency, and firing shall cease the instant it is no longer necessary. The objective should be clearly indicated. Firing should as a rule be directed at the legs of the mob. It must never be in the air not over the heads of the crowd as thereby innocent persons may be injured, while the crowd itself will merely be encouraged to further violence in the belief that the weapons of the police are incapable of harming them. For the same reason blank cartridges must never be served out to police employed to suppress a riot. After "cease fire" a careful check should be made of missing cartridges, and the number of rounds fired, and the result must be noted. This should be done by each petty officer for his squad at once and he should ascertain further that all men are present directly firing ceases. The senior officer present should satisfy himself personally that this has been done. Each petty officer should be made personally responsible for his men, and indiscriminate firing, or independent action, should in ordinary circumstances be severely dealt with.

To exercise proper control on these lines constant practice is required in the police lines, and the matter will receive attention from Deputy Inspectors-General at their inspections.

(6) After any disturbance necessitating firing by the police, as soon as order has been restored, the procession should be halted where it stands until pickets have been placed, necessary petrols organised, and all the dead, wounded and injured attended to. The senior Police officer present will then decide as to the disposal of the processions. Whenever firing has taken place an enquiry must be made on the spot at once by the senior officer present, unless this duty is taken over by a Magistrate, with a view to eliciting all the facts and ascertaining whether the use of fire-arms was justified—*P. Reg. (U. P.) para 66.*

S. 129. If any such assembly cannot be otherwise dispersed, and if it is necessary for
Use of Military Force the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by military force.

S. 130. (1) When a Magistrate determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers

Duty of officer commanding troops required by Magistrate to disperse assembly in Her Majesty's Army or of any volunteers enrolled under the Indian Volunteers Act, 1869, to disperse such assembly by military force and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

(2) Every such officer shall obey such requisitions in such manner as he thinks fit, but in so doing he shall, use as little force, and do as little injury to persons and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

S. 131. When the public security is manifestly endangered by any such assembly, Power of commissioned military officers and when no Magistrate can be to disperse assembly communicated with, any commissioned officer of Her Majesty's Army may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with a Magistrate, he shall do so, and shall thence forward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

S. 132. No prosecution against any person for any Protection against act purporting to be done under prosecution for acts this chapter shall be instituted in done under his Chapter any Criminal Court, except with the sanction of the Local Government; and

- (a) no Magistrate or Police officer acting under this chapter in good faith,
- (b) no officer acting under section 131 in good faith,
- (c) no person doing any act in good faith, in compliance with a requisition under section 128 or section 130, and
- (d) no inferior officer, or soldier, or volunteer doing any act in obedience to any order which he was bound to obey shall be deemed to have thereby committed an offence.

Provided that no such prosecution shall be instituted in any Criminal Court against any officer or soldier in His Majesty's Army except with the sanction of the Governor-General in Council.

CHAPTER VIII

PUBLIC NUISANCE

S. 133. (1) Whenever a District Magistrate, a Sub-
divisional Magistrate or a Magistrate
Conditional order for removal of nuisance
of the first class considers, on re-
ceiving a police report or other
information and on taking such evidence (if any) as he
thinks fit,

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated; or

that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or

100 POLICE POWERS & DUTIES UNDER CR. P. C.

that any dangerous animal should be destroyed, confined or otherwise disposed of, such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,

to remove such obstruction or nuisance, or

to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation ; or

to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or

to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure; or

to remove or support such tree; or

to alter the disposal of such substance; or

to fence such tank, well or excavation, as the case may be ; or

to destroy, confine or dispose of such dangerous animal in the manner provided in the said order ; or if he objects so to do,

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation—A 'public place' includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes.

NOTES

Police duty in such a case—The only duty imposed on the Police in connection with this provision of the Code is to send a report to the Magistrate concerned.

On receipt of information of the nuisance contemplated by this section the officer in charge of a police station or under his directions the second officer would make an inquiry into the matter and submit a report to the Magistrate through the Superintendent of Police.

No Case Diary is opened in such cases, but the result of inquiry in brief is written in the General Diary.

The nuisance must be to the public at large and not merely to private individuals.

Sections 134-142 make provision for Magisterial inquiry in such cases.

CHAPTER IX

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE OR APPREHENDED DANGER

S. 144. (1) In cases where, in the opinion of a District Magistrate, a Chief Presidency Magistrate, Sub-divisional Magistrate, or of any other Magistrate (not being a Magistrate of the third class) specially empowered by the Local Government or the Chief Presidency Magistrate or the District Magistrate to act under this section, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable,

such Magistrate may, by a written order stating the material facts of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed be passed *ex parte*.

(3) An order under this section may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

(4) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section by himself or any Magistrate subordinate to him, or by his predecessor in office.

(5) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and showing cause against the order; and, if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing.

(6) No order under this section shall remain in force for more than two months from the making thereof, unless, in case of danger to human life, health or safety, or a likelihood of a riot or an affray, the Local Government by notification in the Official Gazette, otherwise directs.

NOTES

The provisions of this section do not confer any power on the police; but where in the opinion of a station officer a direction from a competent Magistrate is likely to prevent.

(1) obstruction, annoyance or injury to any person lawfully employed, or

(2) danger to human life, health or safety, or

(3) a disturbance of the public tranquillity or a riot or an affray,

it is his duty to send a report to the Magistrate having jurisdiction to issue such a direction.

It is to be borne in mind that proceedings under this section are taken in *urgent* cases of nuisance or apprehended danger; and are not to be taken in place of any other provision of law (e. g., Sec. 133) which might be more appropriate.

CHAPTER X

DISPUTES AS TO IMMOVABLE PROPERTY

(Ch : XII Cr. P. C.)

S. 145. (1) Whenever a District Magistrate, Sub-
Procedure when dis- divisional Magistrate or Magistrate
pute concerning land of the first class is satisfied from a
etc., is likely to cause police report or other information
breach of peace that a dispute likely to cause a
breach of the peace exists concerning any land or water
or the boundaries thereof, within the local limits of his
jurisdiction, he shall make an order in writing, stating
the grounds of his being so satisfied, and requiring the
parties concerned in such dispute to attend his Court
in person or by pleader, within a time to be fixed by
such Magistrate, and to put in written statements of their
respective claims as respects the fact of actual posses-
sion of the subject of dispute.

(2) For the purpose of this section the expression
"land or water" includes buildings, markets, fisheries,
crops or other produce of land and the rents or profits
of any such property.

(3) A copy of the order shall be served in manner
provided by the Code for the service of a summons
upon such person or persons as the Magistrate may
direct and at least one copy shall be published by
being affixed to some conspicuous place at or near the
subject of dispute.

(4) The Magistrate shall then without reference to
Inquiry as to possession the merits of the claims of any of
such parties to a right to possess
the subject of dispute, peruse the statements so put in,

hear the parties, receive all such evidence as may be produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and, if possible, decide whether any and which of the parties was at the date of the order before mentioned in such possession of the said subject.

Provided also, that, if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute, pending his decision under this section.

(5) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (1) shall be final.

(6) If the Magistrate decides that one of the parties was or should under the first proviso to sub-section (4) be treated as being in such possession of the said subject, he shall issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction, and when he proceeds under the first proviso to sub-section (4), may restore to possession the party forcibly and wrongfully dispossessed.

Party in possession to retain possession until legally evicted

(7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding and shall thereupon continue the enquiry, and if any question arises as to who the legal representative of a deceased party for the purpose of such proceeding

is, all persons claiming to be representatives of the deceased party shall be made parties thereto.

(3) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale proceeds thereof, as he thinks fit.

(9) The Magistrate may, if he thinks fit at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing,

(10) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under Sec. 107.

NOTES

Object of the section—This section provides a speedy remedy for the prevention of breaches of peace arising out of disputes relating to immovable property by maintaining one or other of the parties in possession—*30 A. 41.*

Its only object is to prevent a breach of the peace and not to protect or maintain any body in possession.

When action u/s 145 Justifiable—When there is a *bona fide* dispute as to the right of possession between two rival parties and there is a likelihood of a breach of the peace, the proper procedure as has been held in many cases is to take action u/s 145. But when the dispute is not *bona fide* i. e., if one party is clearly in possession of property and another party wrongfully and without

any claim to possession seeks to eject him by force and a breach of the peace is imminent, an action under section 107 would be justifiable and proper.

Duty of the Police—This section imposes a duty on the police to send a report to the Magistrate concerned for an action under this section in cases of land disputes likely to cause a breach of the peace.

What the report should contain—The report should contain a definite statement of facts and give sufficiently substantial reasons for satisfying the Magistrate that there is a likelihood of a breach of the peace. A mere expression of opinion by a Police officer without sufficient materials that a breach of the peace is likely to happen is not sufficient for action under this section as has been held in many cases.

It must contain a definite statement by a responsible Police officer to the effect that he apprehends that there will be disturbance of the peace which is beyond his power to prevent—25 Cr. L. J., 1109.

Sec. 146 provides for the attachment of the subject of dispute if the Magistrate decides that none of the parties was then in such possession, or is unable to satisfy himself as to which of them was then in such possession.

S. 147. (1) Whenever any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied, from police report or other information, that a dispute likely to cause a breach of the peace exist regarding any alleged right of user of any land or water as explained in S. 145, sub-section (2) (whether such right be claimed as an easement or otherwise), within the local limits of his

Dispute concerning rights of use of immoveable property etc.

jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims, and shall thereafter inquire into the matter in the manner provided in Sec. 145, and the provisions of that section shall, as far as may be, be applicable in the cases of such inquiry.

(2) If it appears to such Magistrate that such right exists, he may make an order prohibiting any interference with the exercise of such right.

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such institutions.

(3) If it appears to such Magistrate that such right does not exist, he may make an order prohibiting any exercise of the alleged right.

(4) An order under this section shall be subject to any subsequent decision of a Civil Court of competent jurisdiction.

Sec. 148 provides for local inquiry by a Magistrate and permits costs to be awarded in proceedings under this Chapter.

CHAPTER XI

PREVENTIVE ACTION OF THE POLICE

(CHAPTER XIII Cr. P. C.)

Police to prevent cognizable offences

S. 149. Every Police officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.

NOTES

The word 'interpose' connotes the idea of actively intervening and not merely prohibition by word of mouth—47 A. 205.

Section 23 of the Police Act (No. V. of 1861) appears to give wider powers for the prevention of offences in general—8 L. B. R. 329.

For the purpose of prevention and detection of crimes, the Police officers should endeavour to secure the general goodwill of the people in their circle and the assistance of the leaders of the different communities. By their visits to towns and villages they should be fully acquainted with the headmen of all places and cultivate the friendship of well disposed persons.

Information of design to commit such offences

S. 150. Every Police officer receiving information of a design to commit any cognizable offence shall communicate such information to the Police officer to whom he is subordinate, and to any other Police officer whose duty it is to prevent or take cognizance of the commission of any such offence.

110 POLICE POWERS & DUTIES UNDER CR. P. C.

NOTES

The duties under this section must be performed without reference to local jurisdiction. If he does not, he is liable under S. 176 I. P. C.

Arrest to prevent such offences

S. 151. A Police officer knowing of a design to commit any cognizable offence may arrest without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

NOTES

Arrest without warrant made under this section must be reported to the District or Sub-divisional Magistrate—*Sec. S. 62.* The provisions of Ss. 60 to 63 must be strictly followed in such cases.

Prevention of injury to public property

S. 152. A Police officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, movable or immovable, or the removal of injury of any public landmark or buoy or other mark used for navigation.

NOTES

The word 'public property' means public road, building, lamp-post, landmark, mile-stone, or a tree in a public avenue or Government forest. The offences in relation to these are set forth in sections 430 to 434 I. P. C.

Inspection of weights and measures

S. 153. An officer in charge of a police station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing,

used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(2) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

NOTES

This section does not apply to the police in the towns of Calcutta, Bombay and Madras, because similar provisions have been made in Calcutta by sections 55 and 56 of the Calcutta Police Act (No. IV of 1886): in Bombay by section 4 of the Bombay City Police Act IV of 1902 and in Madras by section 32 of the Madras City Police Act III of 1888.

For the regulation of public assemblies or processions and licensing of the same see section 30 of Act No. V of 1861.

CHAPTER XII

FIRST INFORMATION REPORTS

A. Information in cognizable offences

S. 154. Every information relating to the commission of a cognizable offence if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant ; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Local Government may prescribe in this behalf.

NOTES

What should it be—(1) The ‘information’ contemplated by this section must be *definite* and not a mere rumour based on vague suspicion. It should be something in the nature of a complaint or accusation or at least information of a crime, given with the object of putting the police in motion in order to investigate—
2 Pat. 517=24 Cr. L. J. 641.

(2) It must show that a cognizable offence has been committed or is reasonably suspected to have been committed. For the definition of ‘Cognizable Offence’ see S. 4 (1) [f].

Such an offence may have been committed even outside the local limits of a police station at which it is reported. The practice in such cases is to arrest the offender if available, and to forward the information to the officer within the local limits of whose police station the offence was committed and he may investigate it.

In order to assume the character of 'F. I. R.' it must be made before the commencement of investigation.

Its description is inapplicable to the statement of a witness recorded under section 161 after the investigation has commenced—47 A. 280; 1925 R. 364—or to information elicited during investigation—*See* 7 C. W. N. 345, 11 C. W. N. 554; 16 C. W. N. 145; 1929 Nag. 43; 1927 C. 17.

It is not necessary that every detail about the commission of the offence should be entered in it—1928 L. 913.

Who may make it—It may come from more sources than one. Usually it is made by the injured person or some one on his behalf or by a village functionary.

It is open to the informant to send a written report which should, however, be authenticated by his signature.

To be entered in a book—The book referred to in this section is the General Diary kept under Sec. 44 of the Police Act.

Use of the F. I. R. at the trial—The first information report is a document of considerable importance and, in practice, it is always and very rightly produced in criminal trials. But it is not a piece of substantive evidence, and can be used only as a previous statement admissible to corroborate or contradict the person who made it—47 A. 280=23. A. L. J. 14; 17 C. W. N. 1213, 15 C. W. N. 198; 45 I. C. 273.

Delay in making the first information to the police and the omission to state material-facts and names of the accused or witness should be viewed with suspicion.

Penalties—(1) Refusal to sign such report is punishable under Sec. 180 I. P. C.

(2) If the report is intentionally false, the informant may be punished under sections 177, 182 203, or 211 I. P. C. as the case may be.

(3) A Police officer making a false record of the information given to him commits an offence under section 218 I. P. C.

Departmental Rules—(Pol. Reg., U. P. Ch. IX) Whenever information relating to the commission of a cognizable offence is given to an officer in charge of a police station, the report should immediately be taken down in triplicate in the Check Receipt Book for reports of cognizable offences (Police Form No. 341). This step should on no account be delayed to allow time for the true facts to be ascertained by a preliminary investigation. Even if it appears untrue, the report must be recorded at once. If the report is made orally, the exact words of the person who makes it, including his answers to any questions that are put to him, should be taken down and read over to him ; he must sign each of the three parts ; or if he cannot write, he must make his mark or thumb impression. If a written report is received, an exact copy must be made, but the signature or mark of the messenger need not be taken. In all cases the officer in charge of the station must sign each of the three parts, and have the seal of the station stamped on each. The triplicate copy will remain in the book ; the duplicate copy will be given to the person who makes the oral or brings the written report ; the original will be sent forthwith through the Superintendent of the Police to the Magistrate having jurisdiction with the original written report (if any) attached.

The practice of delaying first information reports until they can be sent to headquarters attached to special or general diaries is contrary to the provisions of the Criminal Procedure Code and is prohibited.

If there is an Assistant or Deputy Superintendent in charge of the Sub-Division, and stationed at a place other than the headquarters of the District, the original should be sent through him to the Magistrate—Para 87.

As soon as the report has been written in the first information book, the substance of the report must be briefly recorded in the general diary. If the village chaukidar is present and the crime requires entry in his crime record book, the entry should then be made. The entries in the first information report, the general diary and the chaukidar's crime record book must be made at once, even if the report is received at night. The village crime

note-book, the Crime register and the register of property should be written up within 24 hours if the report entails the making of entries in these registers—Para 88.

If an officer in charge of a station receives an oral report of a cognizable offence when he is away from the station house, and wishes to begin the investigation at once and cannot dispense with the attendance of the person who made the report, he should take the report down in writing and after having it signed or marked by the person who made it should send it to the police station to be treated as a written report—Para 89.

Whenever the occurrence of an offence of any of the following kinds is reported—

- (1) dacoity,
- (2) robbery, except unimportant cases such as snatching ear-rings,
- (3) torture by police,
- (4) escape from police custody,
- (5) forging of currency notes,
- (6) manufacture of counterfeit coin,
- (7) serious defalcations of public money, including theft of notes or hundies from letters,
- (8) important cases of murder, poisoning, burglary and theft, breaches of peace between Europeans and Indians, and other cases of special public interest,

copies of the report should be sent immediately in red envelopes to the Superintendent, the District Magistrate, the Sub-divisional Magistrate and the Circle Inspector by post or hand whichever be the quicker method of conveyance. The telegraph when available, and the departmental telegraphic code, should also be used to give the Superintendent early news of such offence—Para 90.

The responsibility imposed on the officer in charge of a police station by section 154 and section 155 (1) of the Code of Criminal

Procedure for the correct recording of all reports of crime, whether cognizable or non-cognizable will be enforced, and he must countersign all reports of either kind recorded—Para 92.

B.—Information in Non-cognisable offences

S. 155. (1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate.

(2) No police officer shall investigate a non-cognizable case without the order of a Magistrate of the 1st and 2nd class having power to try such case or commit the same for trial, or of a Presidency Magistrate.

(3) Any police officer receiving such order may exercise the same powers in respect of the investigation except the power to arrest without warrant) as an officer of a police station may exercise in a cognizable case.

NOTES

A police officer investigating a non-cognizable offence under the order of a Magistrate has powers under sections 160—173.

Departmental Rule.—(Pol. Reg. U. P. Ch. IX.) When a report is made of a non-cognizable offence the important portions of the report should be recorded in the Check Receipt Book for reports of non-cognizable offences (Police Form No. 347). The informant should be required to sign or affix his mark to each of the two copies, and the duplicate copy should be given to him, the original remaining in the book. The substance of the report should be entered in the general diary, and if the report is in writing, the paper containing it should be attached to the diary. The informant should also be referred to the Magistrate, as required by section 155 of the Code of Criminal Procedure.—Para 91.

CHAPTER XIII

INVESTIGATION

A.—In Non-cognizable offence

As provided by S. 155 (2) Cr. P. C. a Police officer shall not investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same for trial or of a Presidency Magistrate.

If a Police officer receives information of the commission of a non-cognizable offence, he is simply to refer the informant to a Magistrate.

If an investigation has been ordered, the Police officer investigating the case may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case—*See* section 155 (3).

After the investigation is over it is the duty of the investigation officer to submit a report under S. 173 Cr. P. C.

The Rule of the Department is as follows :—

When any complaint of an offence, cognizable or non-cognizable, of which a Magistrate has taken cognizance under S. 190 (a) of the Code of Criminal Procedure is referred by him under S. 202 to the police for investigation, the Superintendent of Police or the Gazetted Police officer in charge of the sub-division must satisfy himself before forwarding the complaint to the police station concerned that the provisions of sections 200 and 202 of the Code of Criminal Procedure

have been fully observed. No case in which the statement of the complainant has not been taken on oath by the Magistrate under S. 200, or in which the Magistrate has not under S. 202 recorded his reasons for holding that police investigation is necessary, can legally be sent to the police for investigation. All such cases, and all cases in which the reasons recorded for sending the complaint to the police are *prima facie* invalid, should be brought to the notice of the District Magistrate by the Superintendent of Police before any further action is taken. Investigations which the police are justifiably ordered by Magistrates to make into complaint cases under S. 202 should be made as promptly as circumstances allow ; but in so far as it is a question of finding time for such investigations, cases which are registered and investigated by the Police under S. 157 (1) of the Code of Criminal Procedure will ordinarily take precedence of complaint cases which are sent to them by Magistrates—*P. Reg. (U. P.) para. 113.*

B.--In cognizable offences

Authority to investigate

Sections 156 and 157 empower an officer in charge of a police station to investigate the commission of a cognizable offence within the limits of his station.

S. 156. (1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.

(2) No proceeding of a Police officer in any such case shall at any stage be called in question on the

ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under Sec. 190 may order such an investigation as above mentioned.

NOTES

Any cognizable case—The expression cognizable case is not limited to offences only but it covers cases within the scope of S. 55.

Sub-section 3—A Magistrate may order investigation on the receipt of a complaint, or of a report under S. 157 proviso (a) and (b) or of information from some other source, but it will not be necessary for him to issue such an order if the police have already taken up the investigation of the case.

S. 157. (1) If, from the information received or otherwise, an officer in charge of a police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officer not being below such rank as the Local Government may, by general or special order prescribe in this behalf to proceed, to the spot, to investigate the facts and circumstances of the case, and if necessary, to take measures for the discovery and arrest of the offender :

Provided as follows :—

(a) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(b) If it appear to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

(2) In each of the cases mentioned in clauses (a) Where Police officer in charge sees no sufficient ground for investigation and (b) of the proviso to sub-section (1), the officer in charge of the police-station shall state in his said report his reasons for not fully complying with the requirements of that sub-section and, in the case mentioned in clause (b), such officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the Local Government, the fact that he will not investigate the case or cause it to be investigated.

Report under S. 157 how submitted

S. 158. (1) Every report sent to a Magistrate under section 157 shall, if the Local Government so directs, be submitted through such superior officer of police as the Local Government, by general or special order, appoints in that behalf.

(2) Such superior officer may give such instructions to the officer in charge of the police station as he thinks fit, and shall after recording such instructions on such report, transmit the same without delay to the Magistrate.

S. 159. Such Magistrate, on receiving such report Power to hold investigation or preliminary inquiry may direct an investigation or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

NOTES

(U/s 157)

From information received—These words refer to the information received and recorded under S. 154—5 I. C. 693 ; 25 I. C. 630.

Or otherwise—This may be a village rumour or some other suspicious circumstance

Shall forth with send a report to a Magistrate—Generally this is a copy of the First Information Report and is sent through the Superintendent of Police. In serious cases this report is sent direct to the Magistrate.

Cases where investigation may not be taken up—

An officer in charge of a police station is not bound to investigate all cognizable offences. S. 157 cl. (1) proviso (b) gives him a discretion in that respect.

The Rules of the Department are as follows:—

Bengal

The discretion to be exercised regarding this matter is vested in the Police officer and the responsibility of properly exercising it rests with him. As a guide, however, to the manner in which this discretion might be exercised, the following broad principles are laid down:—

(i) Every reported cognizable offence should be investigated, when an investigation is asked for.

(ii) No investigation should ordinarily be made into the following classes of cases unless an investigation is asked for :—

(1) Cases of house breaking or attempted house breaking, when there is no theft and no clue of the offender.

(2) Theft cases when the property reported to be stolen is

(a) less than Rs. 5/- in value, and

(b) of such a nature as not to be easily identifiable, such as grains or fruits; and

(c) when the informant has no suspicion as to the offender.

122 POLICE POWERS & DUTIES UNDER CR. P. C.

(3) Assault cases when other charges such as theft are super-added, and the latter appear to be more than doubtful.

(4) Cases in which the criminality of the act charged depends upon the decision of a question in dispute, such as a question of title or possession, which it is within the province only of a Civil Court or of a Criminal Court under Chapter VIII or Chapter XII of this Code, to decide.

Police officers must understand that these are not hard and fast rules to be blindly followed in every case. These instructions indicate only general principles, and Police officers are bound by law to exercise their discretion in every cognizable case that is reported to them—Bengal Police Code pp. 374 and 375.

United Provinces.

When a report of a cognizable offence is received, the officer in charge of the station must decide whether an investigation is desirable. In exercising the discretion allowed by section 157 (1) (b) of Criminal Procedure Code, he should consider whether the case is not one for the Civil rather than for the Criminal Courts, and whether action on the part of police is necessary in the interests of the administration or expedient for the preservation of law and order.

No investigation should be made if the subject-matter of the complaint appears to fall within the scope of S. 95 of the Indian Penal Code or if the complainant appears to be setting up a technical offence or exaggerating a trivial occurrence in order to obtain the help of the police in prosecuting a quarrel.

No investigation should be made in the following circumstances, except on the order of the Superintendent of Police in any particular case, or with the concurrence of the Deputy Inspector-General of the Range, in respect of any particular class of offence in any particular area :—

(1) In cases of petty theft or burglary, unless there is reason to believe that professional criminals have been concerned or the criminal has been arrested and the complainant desires prosecution.

- (2) In cases under sections 324 and 325 I. P. C.
- (3) In cases under section 147 I. P. C. unless grievous hurt has been caused or there is danger of a further serious breach of the peace.
- (4) In cases under sections 341 to 344 (unless the confinement continues at the time when the report is made), 354, 447, and 448 of the Indian Penal Code.
- (5) In cases under sections 406 and 420 I. P. C. when there is *prima facie* evidence that the case is of a civil nature.

NOTE.—In all cases of hurt, inflicted with a deadly weapon, the officer in charge of the station should consider whether the circumstances are such as to justify the registration of a case under section 307 or 308 of the Indian Penal Code. Cases registered under either of these sections must be promptly investigated as a matter of course without the order of the Superintendent of Police or the report of the Medical officer being awaited—*Pol. Reg. (U. P.) Ch. X para 93.*

Procedure on Receipt of Information

When a case is reported which calls for the exercise of discretion according to the instructions, the Police officer shall, in addition to complying with the requirements of S. 157 (2) Cr. P. C. record in the General Diary his reasons for making or restraining from making an investigation—See G. O. No. 647/VIII dated 20th March 1922.

Procedure when Investigation is refused

Where investigation is not taken up the informant, if any, should be informed forthwith that his case will not be investigated so that he may file a regular complaint in court or take such other action as he considers necessary. The rule of the department is as follows:—

The officer in charge shall notify to the informant that he will not investigate the case or cause it to be

investigated and shall record his reasons for so doing on the original and triplicate copies of the first information report ; and also make a note to that effect on the duplicate copy which is to be given to the informant—

Pol. Reg. (U. P.) Ch. X para 94.

Cases when an Indian is killed by Br. Soldiers

All cases in which there is any reason to suspect that an Indian has been killed or wounded by British soldiers must be investigated by the Superintendent of Police himself unless a Magisterial inquiry is made by an officer of not less than four year's standing as a Justice of the Peace—*P. Reg. (U. P.) para 114.*

As provided by para 340, Superintendents of Police according to the rules contained in the Manual of the Government Orders are required to give immediate information to the District Magistrate of any case of a serious nature in which soldiers are believed to have been concerned.

The procedure prescribed in the Manual of Government Orders should be followed in so far as its application is possible in all the cases in which conflicts between Europeans and Indians occur or in which Indians are shot or wounded by Europeans.

Procedure where Investigation is taken up

Opening of the Case Diary.

The investigating officer will open a Case Diary ; and, will note therein the time and place at which he has received the information, copy out the first information report, note the time and place at which he began the investigation—*P. Reg. (U. P.) Ch. X para 97.*

The following are the departmental instructions for an officer investigating a crime :—

An investigating officer is not to regard himself as statements. It is a mere clerk for the recording of his duty to observe and infer. In every case he must use his own expert observations of the scene of the offence and of the general circumstances to check the evidence of witnesses, and, in cases in which the culprits are unknown, to determine the direction in which he shall look for them. He must study the methods of such local offenders as are known to the police with a view to recognising their handiwork if ever it should come before him and he must be on his guard against accepting the suspicions of witnesses and complainants when they conflict with obvious inferences from facts. He must also remember that it is his duty to find out the truth and not merely to obtain convictions. He must not prematurely commit himself to any view of the facts for or against any person, and though he need not go out of his way to hunt up evidence for the defence in a case in which he has satisfactory grounds for believing that an accused person is guilty, he must always give the accused persons an opportunity of producing defence evidence before him and must consider such evidence carefully if produced. Burglary investigations should be conducted in accordance with the special orders in force on the subject—*P. Reg. (U.P.) para 96.*

Local investigation—When to be dispensed with

Local investigation may be dispensed with under S. 157 (1) Proviso (a).

In this respect the departmental rule is as follows :—

Investigations should ordinarily be carried out and completed on the spot except in cases falling under S. 157 (1) (a) Cr. P. C. If, however, the scene of the offence is close to the police station, as in towns, and

the case is not covered by S. 157 (1) (a), the Investigating Officer may after visiting the spot, return to the police-station to complete the investigation—*P. Reg. (U. P.)—para 95.*

Inspection of Locality

The Investigating Officer should then inspect the scene of the alleged offence and make a note of his inspection in the Case Diary.

Promptness in arriving at the scene is highly essential. Delay is likely to prove injurious. Material changes may be brought about on the scene of occurrence—on the ground—in the articles left behind by the offender, or in the position of other articles connected with the commission of the crime. In cases of murder, grievous hurt and rape the stains of blood may be washed off. Witnesses may be tampered with or the offender may abscond.

If for some reason the Investigating Officer cannot reach the spot at the earliest possible opportunity, he should depute some subordinate police to the spot to see that it is not disturbed till he arrives.

He should take with him some person thoroughly acquainted with the scene of the crime and its circumstances. The inspection of the scene must be thorough and as minute as possible.

No fixed rules can be laid down for the inspection of a scene, as the facts of no two cases are alike. However the following may be given as points which the inspection of the scene should determine and describe :—

1. The correct place, date and hour of the crime.
2. The direction whence the offender arrived and departed.

It will give the possible or probable line of direction in which to search or look for clues as to transport, marks on the road, descriptive rolls, etc.; and may with luck lead to the river, the railway, or to a particular village and thence to a particular gang hailing from the river, railway or the village.

3. The exact place and means of entry and exit and weapons used.

This is a most important matter. It will show whether the entry was effected from inside or outside, and the nature of the weapon employed.

4. The actual acts or omissions of the criminal at the scene.

The amount of harm done by offenders, the mode of causing it, and the means employed in effecting it should be noted and described. These will furnish a clue to the number of culprits themselves.

5. Existence or non-existence of objects or impressions left behind by the criminal e.g., finger or footprints, or marks of transport, impressions of or even bits of the house-breaking implements employed, traces of blood, or any other trace.

Photography will often assist in preserving marks or impressions which cannot conveniently be carried away.

In looking for footprints, search should not be confined to the actual place of occurrence. It should be made at places where criminals have relaxed precaution on leaving the scene.

The number of footprints will give a clue to the number of criminals; and the length of stride will give some indication as to the height of the offender.

6. The accuracy of statements of witnesses in relation to place.

Map or plan of locality

A plan of the scene of occurrence should be made by the investigating officer in every case of murder, dacoity or important burglary, and in any other case in which such a plan will help a Court or a supervising police officer to a proper understanding of the facts. If he is unable to prepare a plan with the necessary accuracy, he should, if possible, have one made by a Patwari. A plan should always be signed by the person making it—*P. Reg. (U. P.) para 103.*

Clearness and relevancy are required in the plan prepared by the investigating officer. It should show all particulars calculated to be of use to the Court trying a case ; such as the place of occurrence, the houses and positions of witnesses with their relative distances and directions, the position of trees, walls and windows etc. which might obstruct or facilitate the view of the witnesses.

Generally a plan prepared by the investigating officer is *Nasri*, but if possible it should be drawn to scale as it is more accurate and satisfactory.

An index of the places with their distances from the place of occurrence should be noted.

The value of photography, as a means of accurate reproduction of important scenes must be remembered. A photograph will contain details which may perhaps be of subsequent importance which were overlooked at the inspection. Such a photograph is required only in complicated and difficult cases.

Panchayatnama in Death-cases

In cases where death has occurred, the investigating officer will prepare an Inquest Report (called *Panchayatnama*) as provided by Sec. 174 Cr. P. C. and

send the dead body to the medical officer for *post-mortem* examination.

For the preparation of Inquest Report see, Chapter XIV "On Inquest."

Procedure where a corpse is sent for post-mortem examination

The following procedure shall be observed when a dead body is sent for *post-mortem* examination:—

(1) The body shall be laid in the shell in the state in which it has been found. No substance should be applied to it in the hope of delaying decomposition.

(2) The body shall be accompanied by a constable and a chaukidar. If the thana is over 20 miles distant from the medical officer, the constable and chaukidar may be relieved at one or more intermediate stations; but the number of reliefs should be kept as low as possible.

(3) The names of the police constable and chaukidar and of relieving constables and chaukidars, if any, shall always be entered in police form No. 13.

(4) The constable accompanying the body shall be given from the permanent advance of the station a sum sufficient to pay the coolies and other necessary expenses, and a cheque in form No. 11 for the realization of the money at headquarters, if the body is being sent there.

(5) The constable shall be instructed by the officer sending in the body to make it over to the medical officer with the usual requisition; he will remain in charge of the body until the medical officer had completed the examination, and will arrange for the disposal of the remains in the absence of the relatives of the deceased.

130 POLICE POWERS & DUTIES UNDER CR. P. C.

(6) The investigating officer shall prepare in duplicate a descriptive roll of the body, containing particulars of identification distinct from any injuries that may be apparent. He shall give one copy of this roll to the constable accompanying the body, and send the other by post to the police officer in charge of headquarters.

(7) Besides this descriptive roll, there shall be sent with the body a statement in vernacular in form No. 13, which must be prepared with the utmost care. From this, if the body is sent to headquarters or to any other place where there is an English police office, a statement in English, also in form No. 13, will be prepared in that office and will be forwarded to the medical officer, with a requisition for *post-mortem* examination in form No. 33 and a translation of the investigating officer's report on the appearance and situation of the body and on the cause of death as far as the investigating officer has been able to ascertain it. If there is no English police office at the place to which the body is sent, the only papers delivered to the medical officer will be those sent with the body by the investigating officer.

(8) The constable and chaukidar shall identify the body in the presence of the medical officer before the *post-mortem* examination is made.

(9) A translation of the Civil Surgeon's report should be made in the Superintendent's office as soon as possible, and a copy of the translation dispatched to the officer in charge of the police station—*P. R. (U. P.) para 127.*

Procedure for sending injured persons for medical examination

In case where hurts have been caused, the investigating officer shall take statements of the wounded

persons, examine their injuries and note them in the diary, and shall send them to hospital for medical examination provided they consent to it—*P. Reg. (U. P.) para 132*

Mode of sending seriously injured persons

If any of the persons is seriously injured and is unable to walk, the investigating officer shall send him on a covered stretcher which is kept in every police station for carrying wounded persons to hospital. The stretcher is a common *charpey* with *doli* poles attached to it—See—*P. R. (U.P.) paras 129 and 131.*

Procedure after medical examination

The medical officer after examination of the injuries on the person of the wounded men, shall write out notes (called Injury Reports) and give an abstract of the injuries founded on the injured persons to the constable accompanying them for communication to the investigating officer. The constable should be instructed by the investigating officer to ask for such an abstract.—

See P. Reg. (U. P.) para 130.

Recording dying declarations

The officer investigating a case in which a person has been so seriously injured that he is likely to die before he can reach a dispensary where his dying declaration can be recorded, should himself record the declaration at once in the presence of two respectable witnesses, obtaining the signature or mark of the declarant and witnesses at the foot of the declaration.—*P. R. (U. P.) para 104.*

The rule for writing dying declarations as framed by the U. P. Government is as follows:—

The District Magistrate or some Senior Magistrate present in the station on receiving notice that dying declaration is necessary, should at once proceed to take

or depute some stipendiary Magistrate, if possible above the rank of Tahsildar, to take it. He should at the same time cause the Prosecuting inspector to attend with the police papers in the case.

Every Magistrate, on receiving an order or requisition to take a dying declaration from the District Magistrate or medical authority respectively, must at once proceed to the hospital or dispensary to record the dying declaration. At the Sadar he should send for the Prosecuting Inspector, if there be time, before commencing to record the declaration—*Manual of Govt. orders—Vol. I Chapter XXXVI B—Rule 856.*

Authority to summon witnesses

S. 160. Any Police officer making an investigation under this Chapter (i.e., Ch. XIV Cr. P. C.) may, by order in writing, require the attendance before himself of any person being within the limits of his own or in adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case ; and such person shall attend as so required.

NOTES

'Any police officer'—He may be an officer in charge of a police station or a subordinate officer investigating the case.

'By an order in writing'—This section empowers a Police officer to issue a *subpoena* for the attendance of a witness. In cases where a *subpoena* cannot legally issue, a requisition should be made to another station officer to record the statement of a witness.

Women should, if possible, be examined at their own houses. It is improper to send for them to the police station. The convenience of witnesses should be studied and the investigation should be conducted in a conciliatory manner.

Examination of the complainant

The complainant should first be examined. If there has been a delay in making the report, he should be asked to explain it.

Examination of witnesses

S. 161. (1) Any Police officer making an investigation under this Chapter or any Police officer not below such rank as the Local Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such persons shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

NOTES

The power to examine witnesses under this section may be exercised only by a Police officer who is making an investigation under this Chapter or who is of the prescribed rank and has been required by an investigating officer to examine any witness or witnesses. The provisions of this section do not apply to departmental or other miscellaneous inquiries.

May examine orally—The practice of requiring witnesses to give their statements in writing is contrary to the provisions of this section. It is not necessary that the statement of every witness examined under this section should be reduced into writing, nor is it necessary that the statement of a witness should be recorded in full but if a statement is taken down in writing it should be in the Case Diary referred to in section 172 and not elsewhere—See 19 A. 390

Bound to answer—But if he refuses to answer or answers falsely he commits no offence.

Persons to be examined

The investigating officer should examine the witnesses mentioned in the First Information report.

By a systematic and careful inquiry he should also ascertain the names of others who can give relevant evidence in the case and examine them.

He should not omit to examine the persons who live close to the scene of occurrence.

Mode of examination

A witness should be asked in respect of the facts which are said to be within his knowledge, in a systematic manner. Impatience or anything calculated to intimidate or annoy a witness will spoil him and be fatal.

Leading questions may be put to those witnesses who are of defective memory, who are inaccurate observer or of tender age. At the same time nothing must be suggested to the witness that will lead him to testify to matters of which he is ignorant. The best way of assisting such witnesses' power of recollection and description is to bring them to or near the scene of occurrence, and then to examine them.

Different kinds of witnesses need separate treatment during their examination.

Much care and caution should be exercised in questioning children and in accepting their testimony. In one sense they are good witnesses as they are feebly affected by wordly considerations. In another sense they are the worst, as they can be easily influenced and tutored.

Pardanashin ladies should be examined in presence of their male relatives and with due regard to their sex and *parda*. The investigating officer should satisfy himself through a reliable person as to the identity of such persons.

Witnesses of position should be addressed politely in language suited to their standing.

Respectable persons

Wounded or sick persons witnesses require special consideration and require much the same assistance as do the witnesses of defective memory, and of inaccurate observation.

Deaf, dumb & blind persons Deaf and dumb, and blind witnesses are generally good ones. The deaf and dumb man's observative powers, and the blind man's sense of hearing are frequently extraordinarily developed. In the case of the former the services of some one accustomed to deal with him should be utilised.

Informers Informers require the most minute examination, and strict searching corroboration is necessary in every detail of their evidence.

Veracity of a witness how to be tested

To test the veracity of a witness questions should be put to ascertain—

- (1) The means of his knowledge.
- (2) His power of observation and description.
- (3) His relations with the parties.
- (4) His own interest in the case.
- (5) His character and position.

Delay in examination

Delay in getting witnesses and examining them casts a doubt on their veracity and the investigating officer would do well to have the delay explained by the witnesses.

Statements to police not to be signed; and use of such statements in evidence

S. 162. (1) No statement made by any person to a Police officer in the course of an investigation under

this Chapter (i. e., Ch. XIV Cr. P. C.) shall, if reduced into writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made :

Provided that, when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, the Court shall on the request of such accused, refer to such writing and direct that the accused be furnished with a copy thereof, in order that any part of such statement if duly proved, may be used to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872. When any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination :

Provided, further, that, if the Court is of opinion that any part of any such statement is not relevant to the subject matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is expedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (1), of the Indian Evidence Act, 1872.

NOTES

As provided by this section the statement of a witness made before the police can be used only for two purposes, viz., when

it amounts to a dying declaration (*see S. 32 (1)* of the Indian Evidence Act) or when the accused proposes to use it for contradicting the witness who made it and who has been called to give evidence for the prosecution. It cannot be used for the purpose of corroborating a prosecution or a defence witness, nor by the prosecution for the purpose of contradicting a hostile witness or a defence witness, nor by a Police officer to refresh his memory.

The provisions of this section are mandatory and the Court is obliged to supply the copies to the accused or direct that they should be supplied; and an omission to do so is an illegality—*A. L. J. (1931) p. 157 see also A. L. J. 1931 p. 10.*

Witnesses not to be troubled

Persons from whom inquiries are made by the police should not be unnecessarily harassed or detained. If any person summoned under S. 103 or S. 160 Cr. P. C. requests that the period of his attendance be put on the record, the investigating officer shall comply by making an entry on the foil and counterfoil of the of the order form No. 7—*R. R. (U. P.) para 101.*

Arrest and statement of the accused

Arrest

When the evidence is sufficient, or when there are reasonable grounds for believing that the accused has committed the offence, action under Sec. 54 Cr. P. C. is taken. The officer investigating the case would arrest the accused or cause him to be arrested. The stage when such a step is expedient is left to his discretion. He may watch a suspect, but may not restrict his movements without arresting him to remain in attendance as a witness—*P. Reg. U. P.) para 99.*

Statement

The statements of accused persons should be recorded in full—*P. Reg. (U. P.) para 98.*

138 POLICE POWERS & DUTIES UNDER CR. P. C.

No inducement to be offered

S. 163. (1) No Police officer or other person in authority shall offer or make or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Indian Evidence Act, 1872, section 24.

(2) But no Police officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter (i. e., Ch. XIV Cr. P. C.) any statement which he may be disposed to make of his own free will.

NOTES

All oppression, trickery and other foul practices for inducing confessions are most reprehensible and betray a lamentable want of detective tact, talent, resource and patient industry on the part of the investigating officer and bring the whole police force into disrepute. It is also most objectionable to make over suspects to zamindars and other villagers for the purpose of obtaining a confession.

Even senior officers exhibiting an anxiety for the detection of important cases reported to the police unconsciously tempt subordinate officers to employ questionable means for obtaining a confession and thus trying to arrive at the truth by objectionable short cuts. While the work of subordinate officers should be carefully checked and their mistakes pointed out, it is desirable that they should, as far as possible, be allowed to follow their own lines of investigation.

'No Police officer'—That is any Police officer whether he is engaged in the investigation of the case or not. The disobedience to the rule contained in this section will amount to misconduct of which serious notice may be taken under the Police Act.

'Person in authority'—The phrase will apply to all persons who are engaged in the arrest, prosecution or examination of a prisoner.

'Promise'—It is wrong to induce a confession by telling a prisoner that the case against him will be withdrawn or that a conditional pardon under Sec. 337 would be obtained for him.

Sub-section 2—If the prisoner makes a confession of his own free will, he should be allowed to proceed with disclosures and not cautioned or warned against it.

Magisterial power to record Confessions and Statement

S. 364. (1) Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the Local Government may, if he is not a Police officer record any statement or confession made to him in the course of an investigation under this Chapter (i. e. Ch. XIV Cr. P. C.) or at any time afterwards before the commencement of the inquiry or trial.

(2) Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is, in his opinion, best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

(3) A Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and no Magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily; and, when he records any confession, he shall make a memorandum at the foot of such record to the following effect.

"I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession

he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(Sd). A. B.

Magistrate."

Explanation—It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

NOTES

This section empowers certain Magistrates to record statements or the confessions of prisoners during the course of investigation or at any stage afterwards but before the commencement of the inquiry or trial; and prescribes the mode of recording them.

Statement means the statement of a witness and does not mean the statement of an accused person other than a confession. In other words it provides for the recording of two classes of things, viz., (1) the statement of a witness and (2) the confession of a person accused of a crime.

If a witness has made a statement against the accused during the course of investigation which the investigating officer has reason to believe that it is true, and there is a chance of his being squared by the accused or his helpers, it will be well for the investigating officer to have his statement recorded before a Magistrate under this section.

A Magistrate of the second class not specially empowered or a Magistrate of the third class is not competent to record a statement or a confession under this section. Ordinarily the deponent should be produced before the Magistrate having jurisdiction in the case, but if the latter cannot be reached in a reasonable time, the deponent may be produced before any other Magistrate of the first class or Magistrate of the second class specially empowered.

Search by Police officers during investigation—
See Chapter V. on "Searches" p. 61.

Identification of suspects by witnesses

The investigating officer must take steps from the very beginning of his investigation to ensure that the witnesses are given no opportunity of seeing the suspects before identification proceedings are held. Such proceedings should, whenever possible, be postponed until they can be held in the jail under the provisions of the Manual of Government Orders and para 31 of Police Regulations, for the due observance of which as far as the police are concerned, the prosecuting inspector will then be responsible.

When identification proceedings cannot be held in jail owing to there being no sufficient evidence on which the suspects can be arrested or for any other reason, the instructions referred to above must be followed by the investigating officer as far as they can be made applicable. In such cases the proceedings should take place before a Magistrate, as they would if they were held in jail, or, if no Magistrate is available, before two respectable and impartial persons who should be asked to satisfy themselves that the proceedings are fair both to witnesses and to accused. In any case of importance, when no Magistrate is available to conduct identification proceedings not held in jail, a Gazetted Police officer should arrange to attend—*P. Reg. (U.P.) para 105.*

As required by para 31 of P. Regulations it is the duty of the Prosecuting Inspector—

1. to watch carefully all proceedings taken at the headquarters for the identification of the accused persons and to see that they are conducted in such a way as to afford no grounds on which the *bona fides* of the police can be called in question,

142 POLICE POWERS & DUTIES UNDER CR. P. C.

2. to inform the jailor at the time when prisoners are admitted to jail lock-up or as soon afterwards as possible, that identification proceedings will be required, and

3. to satisfy himself, before identification proceedings are held in jail, that the provisions of paragraph 870 of the Jail Manual of U.P. and of the Manual of Government Orders have been fully observed, and he must, through the Superintendent of Police, or Magistrate or Court concerned, bring to the notice of the Superintendent of jail any case in which an under-trial prisoner has been allowed to crop his hair, grow a beard or otherwise change his appearance.

Mr. Warner in his book: "Practical Methods in Police Work" on page 216 says:—

In conducting such proceedings the following points should always be kept in view, viz.:—

1. Selection for the parade of only non-suspects of the same religion and status etc. unknown to the witness.

2. The securing of privacy from view (place to be enclosed if possible) of the parade.

3. Enumeration of the number of non-suspects and total number on parade.

4. Exclusion of every one—specially the police, from the proceedings. Prevention of all coming and going of jail officials.

5. Seclusion, till the completion of the proceedings of each witness as finished with, from others whose evidence has still to be taken. This precaution would exclude the possibility of signals.

6. Changing the place, or places in the line of persons to be identified, at discretion before the arrival of each witness.

7. Exclusion of the man deputed to call each witness from a view of the proceedings.

8. Definite information as to whether witness admits prior acquaintance with any suspect he identifies.

9. Recording any well founded objection by any suspect to any point in the proceedings.

Where a suspect is the sole wearer in the parade of any conspicuous garment, the conducting officer should, if possible, arrange similar wear for others.

Identification of Property

In important cases the practice of having articles or property, recovered from suspects and suspected to be stolen, mixed up with other articles of a similar nature when the property is shown to complainants for identification may often be followed with advantage. In such cases precautions should be taken similar to those laid down for observance in the case of identification parades of accused persons; the person before whom the identification is held must be above suspicion and it will be essential to prove that neither the property suspected, nor that with which it has been mixed, could have been seen by the witness before hand—*F. Reg. (U. P.) para 106.*

Procedure where the accused is insane

When it is established that a person has committed an act which would be a cognizable offence if done by a person in a sound state of mind, it is not for the police to determine whether a defence can be made out on the ground of insanity. This question will be determined by the Court. The accused should be sent for trial and his mental condition should be mentioned in the diary—*P. R. (U. P.) para 107.*

Procedure for sending articles connected with the commission of offences to Sadar

(1) All substance or articles connected with the commission of an offence which may be required as evidence at a trial should be sent with an invoice by the investigating officer to the prosecuting inspector in a sealed cover with the contents noted outside. The prosecuting inspector shall sign the invoice to show that he has received the parcel and shall make an entry for it in his register. The invoice should show the name of the constable who has brought the sealed cover.

(2) If no medical or chemical examination of the article is required, the prosecuting inspector shall keep it until it is wanted for production in Court.

(3) If the article is one of which examination by the Civil Surgeon or chemical examiner appears to be necessary, the prosecuting inspector shall send it to the Civil Surgeon with a letter requesting him to examine it. The prosecuting inspector shall note in his register the agency by which the parcel is sent and shall obtain the Civil Surgeon's receipt for it.

(4) On receiving the parcel, the Civil Surgeon will open it and inspect the contents. If he finds that he can examine them, he will do so, and unless they consist of offensive matter such as stomach washing, vomit or viscera, he will return them with the report of his examination to the prosecuting inspector, who will produce the report and the contents of the parcel, if returned when required by the Court to do so. If the contents are of such a nature that chemical examination appears desirable, the Civil Surgeon shall inform the Court to that effect and retain the contents until orders from the Court are received.

(5) On receipt of orders from the Courts requiring him to send the contents to the chemical examiner, the Civil Surgeon shall proceed as laid down in the rules on the subject contained in the Manual of Government Orders.

(6) If the Court intimate that it does not consider an examination by the chemical examiner necessary, the Civil Surgeon shall return the contents of the parcel to the Court for disposal, obtaining a receipt for it from the Court.

The Civil Surgeon shall be the custodian of substances of an offensive nature as long as the medical analysis is under consideration. Once the analysis has been made and the report and substances have been presented in Court, the police should take charge of the exhibits, which should be kept in the Makhana—*P. Reg. (U. P.) Ch. XI para 128.*

Procedure when investigation cannot be completed in twenty-four hours.

S. 167. (1) Whenever any person is arrested and detained in custody and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the Police officer making investigation if he is not below the rank of sub-inspector shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time authorise the detention of the accused in such custody

146 POLICE POWERS & DUTIES UNDER CR. P. C.

as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the Local Government shall authorise detention in the custody of the police.

(3) A Magistrate authorising under this section detention in the custody of the police shall record his reasons for so doing.

(4) If such order is given by a Magistrate other than the District Magistrate or Sub-Divisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate.

NOTES

The section is applicable when an accused person is in custody and not when he has been released on bail.

Conditions for remand.—There are two conditions to justify a remand order, viz :—

(a) that the investigation cannot be completed within the period of 24 hours, and

(b) that there are grounds for believing that the accusation or information is well-founded.

The Magistrate should, by a perusal of police papers and, if necessary, by examining the investigating officer on oath, satisfy himself as to the necessity of ordering the detention of the accused in custody. Without adequate grounds he has no authority to detain an accused person. Detention in police custody is to be allowed only in special cases and for stated reasons. There should at least be something to satisfy the Magistrate that the presence of the

person arrested while the police investigation is being held would assist in some discovery of evidence and that his presence is indispensable for the purpose—6 Cr. L. J. 86.

Who may ask for remand—The application for remand should be made either by the officer in charge of the police-station which expression includes officers of higher rank also, or by the investigating officer if he is not below the rank of Sub-Inspector.

Application for remand—The application for remand should be accompanied by a copy of the entries in the Case Diary showing

- (a) when the accused was arrested;
- (b) the grounds for believing that he committed the offence with which he is charged, and
- (c) the reason why the investigation could not be completed within twenty-four hours of the accused's arrest.

If remand to police custody is applied for, it should be made clear why the presence of the accused at police investigation is necessary. The accused, if in police custody, should be forwarded to the Magistrate.

Departmental Rule—A remand to police custody should not be applied for or given unless the officer making the application is able to show definite and satisfactory grounds for it. A general statement that the accused may be able to give further information should not be accepted. Applications for remand to police custody must be made through the Superintendent of Police or gazetted Police officer in charge of a sub-division, and may be addressed to the Magistrate of the status required by Sec. 167 Cr. P. C.—P. Reg. (U. P.) Ch : X para 110.

Shall forthwith transmit to the nearest Magistrate—He should preferably be the Magistrate having jurisdiction in the case but if he cannot be reached within reasonable time the application may be presented to any other Magistrate of the first class or to a Magistrate of the second class specially empowered if the accused is to be taken back in police custody. If the accused is to be remanded to Magistrate's lock-up he may be put up before any Magistrate.

For a term not exceeding fifteen days—The period of remand is not to exceed 15 days. In important cases of dacoity or in big gang cases against dacoits or robbers it often becomes difficult to complete the investigation within the period of 15 days. The proper course in such a case would be to proceed under section 170, to send a charge sheet under section 173 and to forward such of the accused, as against whom there is sufficient evidence or well founded accusation to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit them for trial. Then, under Sec. 344, an application might be made for cause shown as specified there to postpone the commencement of the inquiry or trial and remand the prisoners, so that further evidence may be obtained and the investigation may be completed. The remaining accused persons against whom there is no such evidence or suspicion should be released on their executing bonds, with or without sureties under S. 169—25 Cr. L. J. 732 (e); 26 Cr. L. J. 68 (e). See also A. L. J. Vol. XXIX (1931) p. 617.

Persons arrested under S. 55 should be put up before a competent Magistrate for action under S. 112 and, if necessary, for detention under Sec. 344. They cannot be remanded to custody under S. 167.

Report of investigation by Subordinate Police Officer.—

S. 168—When any subordinate Police officer has made an investigation under this Chapter (i.e., under Ch. XIV Cr. P. C.), he shall report the result of such investigation to the officer in charge of the police station.

NOTES

The officer in charge of a police station is responsible for the investigation of cognizable offences connected with his circle and all investigations by his subordinate officers are made under his orders. See Ss. 156 and 157. It is his business to report the result of all investigations made by him or his subordinates to a competent

Magistrate—*See Ss. 170 and 173.* It is therefore necessary that the result of investigations made by his subordinates should be reported to him.

Release of accused when Evidence deficient—

S. 169.—If upon an investigation under this Chapter (i.e., Ch. XIV of the Code), it appears to the officer in charge of the police station or to the Police officer making the investigation that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police report and to try the accused or commit him for trial.

NOTES

The powers under this section may be exercised by

1. the officer in charge of a police station,
2. the investigating officer, and
3. a Police officer of a superior rank under S. 551.

The action of the police is subject to the control of the Magistrate. The release under this section will not prevent him from ordering the re-arrest of the accused, if on the receipt of a report under section 173 such Magistrates think that there is a *prima facie* case against the accused.

In cases covered by this section a "Final Report" is sent to the Magistrate concerned.

A Police officer of superior rank may however, proceed under section 170 in cases where action under section 169 has been taken.

150 POLICE POWERS & DUTIES UNDER CR. P. C.

Case to be sent to Magistrate when evidence is sufficient.—

S. 170.—(1) If, upon an investigation under this Chapter it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

(2) When the officer in charge of a police station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant, if any, and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(3) If the Court of the District Magistrate or Sub-Divisional Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

(4) * * * * *

(5) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

NOTES

If upon investigation—It also covers the investigation made by a subordinate Police officer.

The officer in charge of the police station—This includes officers of superior rank as well. On the report made by a subordinate Police officer who investigated the case, the officer in charge has to decide whether action under this section is to be taken. A superior officer may not approve of the action of the officer in charge of the police station and may order the release of the accused under S. 169.

Sub-s. (5)—Report referred to in this sub-section is apparently a charge-sheet submitted under S. 173.

S. 171.—No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a Police officer,

or shall be subjected to unnecessary restraint or inconvenience, or require to give any security for his appearance other than his own bond:

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 173, the officer in charge of the police station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

NOTES

As provided by this section the witness should not be kept under surveillance or restraint and should be free to move as they like.

Diary of proceedings in investigation.—

S. 172. (1) Every Police officer making an investigation under this Chapter shall day by day enter his proceedings in investigation in a diary, setting forth the time at which the information reached him, the place or places visited by him and a statement of the circumstances ascertained through his investigation.

(2) Any Criminal Court may send for the police diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case but to aid it in such inquiry or trial. Neither the accused nor his agent shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the Police officer who made them, to refresh his memory, or if the Court uses them for the purpose of contradicting such Police officer, the provisions of the Indian Evidence Act, 1872, section 161 or section 145, as the case may be, shall apply.

NOTES

What a Diary should contain—The Case Diary must contain the particulars required by S. 172 in no more detail than is absolutely necessary to enable a supervising officer to understand the facts. A note should be made in it as to whether the complainant confirms his first information report, and the substance of any supplementary statement he makes to the investigating officer should be briefly recorded. As regards the statement of witnesses, it will ordinarily suffice to note in the diary the names of all persons examined with a brief summary of the evidence offered by each. The statements of accused persons only should be recorded in full. When investigation is closed for the day, the time and place at which it is closed must be noted, and throughout the investigation the diary must be sent daily to the Superintendent on all days on which any proceedings are taken. If the investigating officer is

not himself in charge of the station, the diary must be sent through the officer in charge, except when this will cause delay. All changes of investigating officers must be recorded in it. If more officers than one are investigating the same case independently at the same time each should keep a separate diary. The provisions of sections 162 and 173 must be carefully studied. In petty cases a very short case diary will ordinarily be sufficient—P. Reg. (U.P.) para. 98.

The Case Diary should be concise and should exclude all repetitions and irrelevant matters. The practice of writing long-winded diaries involves an unnecessary waste of time of those who write or read them.

Use of a Case Diary.

(a) *by the Court*.—It may be perused by the Court for the purpose of assisting it in inquiry or trial, or as suggesting means of further elucidating the points which need clearing up and which are material for doing justice between the accused and the Crown.—S. 172 cl. (2); 44 C. 876 (F. B.); 27 C. 295; 19 A. 390; 23 Cr. L. J. 251 (Lah.); A. I. R. 1926 (Lah.) 54.

(2) It may also (a) direct the Police officer who is giving his evidence to refresh his memory on any point from the notes made by him in the course of investigation of the case; or (b) question him as to the contradictions which may appear between the statements recorded in the diary and the evidence which the police officer is giving in the Court—S. 172 (2); 2 Pat. L. J. 223 == 61 I. C 230; 3 Pat. L. J. 568.

(b) *by a Police-officer*.—(1) He can refresh his memory on any fact when he is under examination—S. 173 (2).

The accused cannot insist that the Police officer should refer to the Diary to refresh his memory—8 C. 154.

But can he be compelled to refresh his memory if necessary?

In *Harkhu and others vs. Emperor* reported in 19 A.L.J. p. 76, Piggot J. observed as follows: "A witness before a Court of Justice is under an obligation to tell the truth and the whole truth, to the best of his power. If upon any question he suffers from a

bona fide lapse of memory, and that failure of memory can be remedied by reference to any memorandum or other writing prepared by the witness at the time, and the Court invites the witness to refresh his memory with reference to the writing. The witness is, in our opinion, under an obvious obligation to do so. It is a part of the duty under which he lies to lay the whole truth before the Court to the best of his ability."

In *Mohi-ud-din vs. K. Emperor*. A. I. R. 1924, Pat. 829, it was held, that if a Sub-inspector does not remember what a witness stated at the investigation and refuses to refresh his memory from the diaries the Court should compel him to look into the diaries.

(c) *by the accused.*—(1) If the Case Diary has been used by the Court to contradict the Police officer who made it, or by the Police officer himself to refresh his memory, the accused or his pleader has a right to see that portion of the Diary which has been referred to for either of these purposes and, he can cross-examine the Police officer with reference to that portion—S. 172 (2).

(2) Under S. 162 the accused is also entitled to get a copy of the statement made by a witness to the police for the purposes of cross-examination.

Report of Police officer.—

S. 173. (1) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police station shall—

(a) forward to a Magistrate empowered to take cognizance of the offence on a police-report a report, in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused, if arrested, has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties, and

(b) communicate, in such manner as may be prescribed by the Local Government, the action taken by him to the person if any, by whom the information relating to the commission of the offence was first given.

(2) Where a superior officer of police has been appointed under section 158, the report shall, in any case in which the Local Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation.

(3) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

(4) A copy of any report forwarded under this section shall, on application, be furnished to the accused before the commencement of the inquiry or trial:

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost.

NOTES

When an investigation is complete the investigating officer must comply with the provisions of sections 168-171 and 173 Cr. P.C. The report prescribed by section 173 must, under that section, be sent through the officer in charge of the station, and should be in the form of the Charge Sheet (No. 339), if the case is sent for trial, and in the form of the final report (No. 340) if the case is not sent for trial. The Charge Sheet should ordinarily be submitted together with the final Diary in the case, direct to the Court concerned and a report, that this is being done, should be sent separately to the Superintendent of Police. The Final Report should be sent

156 POLICE POWERS & DUTIES UNDER CR. P. C.

through the Superintendent of Police. Information of the result of investigation must as required by section 173, be sent by the Station Officer to the complainant, if any, by post-card in the prescribed form at the same time as the Charge Sheet or Final Report is sent to the Court—*P. Reg. (U. P.) para. 111.*

Previous convictions to be noted—

Particulars as to any previous convictions of an accused should be noted in Column 7 of the Charge Sheet. If the accused resides in another police station of the same district, the officer in charge of that station should be asked to give details of his previous conviction (if any) and to send them to the prosecuting inspector direct if time is short—*P. Reg. (U. P.) para 112.*

C.—Investigation in cases where Police officers are accused.

When the offence alleged against a Police officer amounts to an offence only under section 7 of the Police Act there can be no magisterial inquiry under the Criminal Procedure Code. In such cases, and in other cases until and unless a magisterial inquiry is ordered, inquiry will be made under the direction of the Superintendent of Police in accordance with the following rules:—

I.—Every information received by the police relating to the commission of a cognizable offence by a Police officer shall be dealt with in the first place under Chapter XIV, Criminal Procedure Code, according to law, a case under the appropriate section being registered in the police station concerned: provided that—

- (1) if the information is received, in the first instance, by a magistrate and forwarded by the District Magistrate to the police, no case will be registered by the police;

- (2) in the case of information given, in the first instance, to the police the report required by section 157, Criminal Procedure Code, shall be forwarded to the District Magistrate, and when forwarding it the Superintendent of Police shall note on it with his own hand what steps are being taken as regards investigation or the reasons for refraining from investigation;
- (3) unless investigation is refused by the Superintendent of Police under section 157(1)(b), Criminal Procedure Code, and not ordered by the District Magistrate under section 159, or unless the District Magistrate orders a magisterial inquiry under section 159, investigation under section 156, Criminal Procedure Code, shall be made by a Police officer selected by the Superintendent of Police and higher in rank than the officer charged;
- (4) on the conclusion of the investigation and before the report required by section 173, Criminal Procedure Code, is prepared the question whether the officer charged should or should not be sent for trial shall be decided by the Superintendent of Police, provided that before an officer whose dismissal would require the concurrence of the Deputy Inspector-General under paragraph 449 is sent for trial by the Superintendent of Police, the concurrence of the Deputy Inspector-General must be obtained;
- (5) the charge sheet or final report under section 173, Criminal Procedure Code, shall be sent to the District Magistrate; if the Superintendent of Police or the Deputy Inspector-General has decided against a prosecution, a note by

the Superintendent of Police giving the reasons for this decision shall be endorsed on, or attached to, the final report;

- (6) when the reason for not instituting a prosecution is that the charge is believed to be baseless, no further action will be necessary; if the charge is believed to be true and a prosecution is not undertaken owing to the evidence being considered insufficient or for any other reason the Superintendent may, when the final report under section 173, Criminal Procedure Code, has been accepted by the District Magistrate take departmental action as laid down in paragraph 460.

II.—When information of the commission by a Police officer of a non-cognizable offence (including an offence under section 29 of the Police Act) is given in the first instance to the police, the Superintendent of Police may if he sees reason to take action either (a) proceed departmentally as laid down under head III of this paragraph and in paragraph 460 or (b) as an alternative to, or at any stage of the departmental proceedings, forward a report in writing to the District Magistrate with a request that he will take cognizance of the offence under section 190 (1) (b), Criminal Procedure Code; provided that reports against Police officers of having committed non-cognizable offences will (when made to the police and unless there are special reasons for desiring a magisterial inquiry or formal police investigation under the Code) ordinarily be inquired into departmentally and will not ordinarily be referred to the District Magistrate until departmental inquiry is complete, and then only if a criminal prosecution is desired.

On receiving information either by means of a report in writing from the Superintendent of Police as laid

down above, or otherwise as laid down in section 190 (1) (a) and (c), Criminal Procedure Code, of the commission by a Police officer of a non-cognizable offence, the District Magistrate may, subject to the general provisions of Chapter XV, Part B, Criminal Procedure Code—

- (a) proceed with the case under Chapter XVII, Criminal Procedure Code;
- (b) order an inquiry by a magistrate or an investigation by the police under section 202, Criminal Procedure Code; or an investigation by the police under section 155 (2);
- (c) decline to proceed under section 203, Criminal Procedure Code.

If an investigation by the police is ordered it will be made under section 155 (3), Criminal Procedure Code, by an officer selected by the Superintendent of Police and higher in rank than the officer charged and all further proceedings will be exactly as laid down for cognizable cases in paragraph 456-I (4), (5) and (6) above.

If no investigation by the police is ordered and the District Magistrate, either after or, without magisterial inquiry, declines to proceed criminally with the case, the Superintendent of Police will decide, in accordance with the principles set forth in paragraph 456-I (6) above and subject to the orders contained in paragraph 463, whether departmental proceedings under paragraph 460 are required.

III.—When a Superintendent of Police sees reason to take action on information given to him, or on his own knowledge or suspicion, that a Police officer subordinate to him has committed an offence under section 7 of the Police Act or a non-cognizable offence (including an offence under section 29 of the Police Act) of which he considers it unnecessary at that stage to forward a

report in writing to the District Magistrate under rule II above he will make or cause to be made by an officer senior in rank to the officer charged, a departmental inquiry sufficient to test the truth of the charge. On the conclusion of this inquiry he will decide whether further action is necessary, and, if so, whether the officer charged should be departmentally tried, or whether the District Magistrate should be moved to take cognizance of the case under the Criminal Procedure Code : provided that before the District Magistrate is moved by the Superintendent of Police to proceed criminally with a case under section 29 of the Police Act or other non-cognizable section of the law against an inspector, sergeant or sub-inspector, the concurrence of the Deputy Inspector-General must be obtained. Prosecutions under section 29 should rarely be instituted and only when the offence cannot be adequately dealt with under section 7.—*P. Reg. (U. P.) para 456.*

The offence of negligently (or wilfully) suffering a prisoner to escape should ordinarily be dealt with by prosecution under section 29 of the Police Act, and not under section 223 or 225 A of the Indian Penal Code.—*P. Reg. (U. P.) para 457.*

CHAPTER XIV

INQUESTS

S. 174. (1) The officer in charge of a police station or some other Police officer specially empowered by the Local Government in that behalf, on receiving information that a person—

- (a) has committed suicide, or
- (b) has been killed by another, or by an animal, or by machinery, or by an accident, or
- (c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquest, and, unless otherwise directed by any rule prescribed by the Local Government, or by any general or special order of the District or the Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fracture, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

(2) The report shall be signed by such Police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

(3) When there is any doubt regarding the cause of death, or when for any other reason the Police-officer considers it expedient so to do, he shall, subject to such rules as the Local Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(4) In the Presidencies of Fort St. George and Bombay, investigations under this section may be made by the head of the village, who shall then report the result to the nearest Magistrate authorized to hold inquests.

(5) The following Magistrates are empowered to hold inquests, namely, any District Magistrate, Sub-divisional Magistrate or Magistrate of the First class and any Magistrate specially empowered in this behalf by the Local Government or the District Magistrate.

NOTES

For inquests in the Presidency towns of Bombay and Calcutta—
See Coroners Act IV of 1871. For powers of village headman in Bombay—*See Section 11 Bombay Village Police Act VIII of 1867.* For powers of the village headman in Madras—*See Section 13 of Mad. Reg. XI of 1816.*

Under S. 45 every village headman, village accountant, village watchman, village Police officer, owner or occupiers of land, and the agent of any such owner or occupier in charge of the management of that land and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station, whichever is the nearer, any information which he may possess respecting the

occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred.—See *P. Reg. (U.P.) para 118.*

All sub-inspectors and such head constables as may be specially selected by the Superintendent of Police, are empowered by Local Government to make enquiries under section 174 Cr. P. C.—See *P. Reg. (U.P.) para 120.*

Investigation by the police under S. 174 Cr. P. C. should when made, if possible be made before the body is touched or moved. In U.P. form No. 211 is used. Where death is due to an accident or suicide and in which enquiry is concluded in one day, this form is used both as the inquest report and as the case diary prescribed under section 172.—*P. Reg. (U.P.) para 121.*

When death is known or suspected to be due to the commission of a cognizable offence, or when for any other reason the investigating officer considers it expedient to do so, he shall send the body for post-mortem examination if the state of the weather and the distance admit of its being forwarded without risk of such putrefaction on the road as would render examination useless—*P. Reg. (U.P.) para 123.*

Whenever the sudden or unnatural death of a European is reported the officer in charge of the station shall immediately send urgent information to the Superintendent, and the report required by S. 174 Cr. P. C. shall be made by a European officer. Unless death has been caused by violence, the marks of which are apparent, no Indian officer shall examine the body; under no circumstances shall any examination be made when the deceased is of the female sex, but a Police officer not below the rank of head constable shall remain with or accompany the body until the Magistrate's orders are received.—See *P. Reg. para 122.*

The finger impressions of all unidentified corpses should be taken on search slip forms and sent to the Finger Print Bureau for search. Similarly, where death is known or suspected to be due

to the commission of a cognizable offence and where there is any possibility that finger impressions if subsequently found on the scene of the crime may become material to the investigation, the finger impressions even of an identified corpse should be taken on a search slip in order that they may be compared with any finger impressions found at the scene of the crime before time is wasted in using the latter as a basis of search for the culprit.

Ordinarily there is no such difficulty in taking impressions from the finger of a corpse, but it sometimes happens that the skin of the fingers is so contracted and wrinkled that decipherable prints cannot be obtained. In such cases the Medical Officer holding the post-mortem should be asked to remove the skin from the fingers. He should place each piece in a separate sealed envelope, marking on the outside the finger to which it belongs. These envelopes should then be sent to the Finger Print Bureau for opinion. The finger prints of corpses should invariably be taken under the supervision of an officer not below the rank of sub-inspector. Prints of all fingers must be taken and the supervising officer will certify by his signature on the search slip that the impressions have been correctly taken in his presence. The supervising officer will note in the remarks column of the search slip the condition of the body, whether in an advanced stage of decomposition or otherwise—See *P. Reg. (U.P.) para 124.*

In the cases noted below the following steps are taken by an investigating officer in order to assist Medical officer making examinations of dead bodies and injured persons:—

r—Case of suspected poisoning

He would collect and take in his custody the following substances and articles and send them to the Prosecuting Inspector as required by the rules :—

- (1) Any food or drink last partaken of by the deceased.
- (2) Any vomited matter which may be on the person or bed ; this should be carefully swabbed up with a rag.

(3) Any clothing, matting, wood, mud flooring or manure or dirt heap into which any vomitted matter has soaked.

(4) The contents of any vessel containing vomited matter. This should carefully be put into a bottle.

(5) The ashes of the funeral pyre in the event of cremation.

(6) He should elicit information on the eight following points and enter them in the special diary in due order :—

(i) the interval between the last time that the person, who is supposed to have been poisoned, ate or drank anything, or took any medicine and the first appearance of symptoms of poisoning ;

(ii) the interval between the last time of eating or drinking either food or medicine, and the occurrence of death (if death occurred) ;

(iii) whether the person moved from the place where the first symptoms were noticed, and, if so, how far he went ;

(iv) what the first symptoms of poisoning were ;

(v) whether vomiting or purging occurred :

(vi) whether the person became drowsy or fell asleep :

(vii) whether any cramps or twitching of the limbs were observed, or the tingling of the skin or throat was complained of ;

(viii) any other symptoms noticed.

In cases of suspected human poisoning a short account of the facts of the case are to be given in the

following form for the guidance of the Chemical Examiner when the substance is transmitted for analysis :-

- (1) Name, sex and age of the patient.
- (2) Nature of food last taken.
- (3) How soon after this meal did the symptoms of poisoning began ?
- (4) Did the patient walk from the place where he was first taken ill ? If so, how far?
- (5) Did the patient complain of pain or discomfort ?
- (6) Was there purging ?
- (7) Was there vomiting ?
- (8) Did the patient become unconscious ? If so, how soon did this occur after the onset of the symptoms ?
- (9) Was the patient dizzy or faint ?
- (10) Did convulsions or cramps occur ?
- (11) Did the patient complain of tingling of the skin or throat ? *
- (12) Did the patient talk sensibly or foolishly ?
- (13) Did the patients pick at objects on the ground or bed ?
- (14) Was any treatment adopted ? If so, what was its nature ?
- (15) Did death occur, and if so, how soon after the illness began ?
- (16) What poison is supposed to have been used ?

Information on the above points are to be forwarded to the District Magistrate before the latter officer sends the substance for Chemical analysis.

II. Cases of hanging or strangulation.

(1) If possible, before the body is cut or removed, the strangulating medium is to be noted, and any lividity of face, specially of lips and eyelids, any projection of the eyes, the state of the tongue, whether enlarged and protruded or compressed between the lips, the escape of any fluid from mouth and nostrils and the direction of its flow.

(2) When the body is cut down, or the strangulating medium removed, particular note is to be made of the state of the neck, whether bruised along the line of strangulation.

(3) The direction of the mark is also to be noted i. e., whether it is circular or oblique.

(4) The state of the thumb is also to be noted.

The investigating officer is to take in his possession the materials by which hanging or strangulation has been effected.

III. When a body is found in a well or tank.

A Police officer is to take note of the following :—

(i) Any marks of blood around the mouth or on the sides of the well or tank.

(ii) When the body is removed, any external marks of injury, especially about the head and neck.

(iii) The state of the skin—whether it is smooth or rough.

(iv) The examination of the hands—anything they may hold should be carefully removed.

IV.—Where the body is found murdered in an open field

- (1) The number, character, and appearance of any injuries are to be noted.
- (2) If a weapon is found, it should be covered with paper, and any marks of blood on it and any adherent hairs should be noted and preserved.

(3) In the case of an exposed infant, the state of the chord, especially if tied, and any marks of violence should be noted.

V.—Cases of presumed murder, and burial or cremation of the remains

- (i) Any marks of violence, especially about the skull should be examined and noted.
- (ii) Any indications of sex is to be noted and a jaw and the bones of the pelvis at least are to be brought away.
- (iii) If there are any suspicions of poisoning, the earth from the place where the stomach was is to be carefully taken up.
- (iv) If a body, presumed to have been murdered, has been burnt, any fragments of bones which may be found among the ashes should be collected and sent in.

VI.—Where opinion on blood marks or stains is required.

In cases in which an opinion on the nature of the stains on clothes is required, the stains should be allowed to dry before the clothes are folded up.

In the case of blood stains or spots on mud floors or hard earth etc., the piece containing stains should be

cut out and wrapped in cotton wool as provided by police rules, before it is sent for obtaining the opinion—
See P. Reg. (U. P.) para 125.

The following are the rules made by the Local Rules framed under Government under the Village Pan-Village Panchayat Act chayat Act :—

1. On receiving information of a suicide or of a death caused by an animal or by machinery or by an accident, the *Sarpanch* shall immediately assemble the *Panchayat* or as many members thereof as can be assembled.
2. The *Sarpanch* and the other present members (if any) of the *Panchayat* shall then—
 - (a) examine the body and have it identified and record a description of the body, and
 - (b) examine and record the place where the death occurred, and
 - (c) inquire into the circumstances of the death, especially with a view to ascertaining whether the death was a suicide or was caused by an animal or by machinery or by an accident, or whether there is any reason to suspect any foul play, and
 - (d) prepare for transmission to the police station a brief report in form No. VIII which shall be signed or marked by the *Sarpanch* and all members of the *Panchayat* present at the inquiry and shall contain the following informations:—
 - (1) date and time of the receipt of the report of the death,
 - (2) the approximate date and time of death, and

170 POLICE POWERS & DUTIES UNDER CR. P. C.

(3) name, parentage, caste, sex and age of the deceased,

(4) the result of examination of the body, and marks of injury being specially noted, and it being stated in what manner or by what weapon or instrument (if any) such marks appear to have been inflicted,

(5) the result of the inquiry, including an opinion as to the cause of the death and as to whether the death was a suicide or was caused by an animal or by machinery or by an accident, or there was any reason to suspect any foul play, and including the grounds on which this opinion is based, and

(6) date and time of the completion of the report.

3. If the opinion recorded in the report is that there is no reason to suspect foul play, the report shall be made over to the Chaukidar as soon as possible for transmission to the police station.

4. But if the opinion recorded is that there is reason to suspect foul play, the *Sarpanch* shall at once arrange for the immediate despatch of the report to the police station by hand of any person available.

If the person bringing the report of the *Panchayat* to the effect that the death has occurred in circumstances raising suspicion of foul play is not a village Chankidar, he shall be paid dieting allowance.

CHAPTER XV

ACCOMPLICE EVIDENCE

The facts and circumstances of some cases require the examination of an accomplice in crime as a witness in the case. The provisions of the Code under which pardon is tendered to an accomplice is given below. Under Sec. 133 I. Evi. Act a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice, but it has been held by all the High Courts in India that the evidence of an accomplice must be corroborated in material particulars. The result of the decisions appears to be that (*i*) that there must be corroboration as to the commission (corpus delicti) and circumstances of the crime, (*ii*) as to the identity of each one of the accused ; and (*iii*) his actual participation of the crime, i. e., where there are several persons, the corroboration must be not only as to one, but as to all of the persons affected by the evidence.

S. 337 (1) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment which may extend to ten years, or any offence punishable under section 211 of the Indian Penal Code with imprisonment which may extend to seven years, or any offence under any of the following sections of the Indian Penal Code, namely, sections 216A, 369, 401, 435 and 477A, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or

Tender of pardon
to accomplice

the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof :

Provided that, where the offence is under inquiry or trial, no Magistrate of the first class other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the District Magistrate has been obtained to the exercise thereof.

(1A) Every Magistrate who tenders a pardon under sub-section (1) shall record his reasons for so doing, and shall, on application being made by the accused furnish him with a copy of such record:

Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of costs.

(2) Every person accepting a tender under this section shall be examined as a witness in the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any.

(2A) In every case where a person has accepted a tender of pardon and has been examined under sub-section (2), the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of

an offence, commit him for trial in the Court of Sessions or High Court, as the case may be.

(3) Such person, unless he is already on bail, shall be detained in custody until the termination of the trial.

S. 338. At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender or order the committing Magistrate or the District Magistrate to tender a pardon on the same condition to such person.

Power to direct tender of pardon

CHAPTER XVI

BAIL

- A.—General Provisions.
- B.—Departmental Rule for Bail.
- C.—Cases under the Code where Bail may be granted.
- D.—Provisions for Bail in respect of offences under other Laws.

A.—General Provisions.

S. 496. When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail:
In what cases bail to be taken

Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided.

Provided, further, that nothing in this section shall be deemed to effect the provisions of section 107, sub-section (4), or section 117 sub-section (3).

NOTES

"Bail" is not intended to be punitive, but only to secure attendance of the prisoner at the trial.

In bail-able offences no needless impediments should be placed in the way of an accused's being admitted to bail—*20 Bom. L. R. 121; 41 I. C. 345.*

Any person other than a person accused of a non-bailable offence—These words cover the case of a person who has been accused of a non-bailable offence and also of a person who has been arrested for a matter which does not amount to an offence. For examples arrests made under sections 54 (cl. 2), 55 and 151.

By an officer in charge of a police station—A person arrested without warrant by a subordinate Police officer should be taken to the officer in charge of the police station under S. 60.

Is prepared at any time while in custody to give bail—As soon as a person is arrested without a warrant by an officer in charge of a police station or by a subordinate officer and brought before him such person should be given the option of a reasonable bail. The entry in a General or Case Diary regarding the arrest without warrant of a person who may be legally admitted to bail should show the amount of the bail demanded and the fact that such person has been duly informed of it.

Shall be released on bail—Bail under this section is a right and not a favour. If the required security is furnished the prisoner must be released at once.

Who may accept bail—It is only a Court or an officer in charge of a police-station who may demand and accept bail. No subordinate Police officer except in cases under sections 57, 59 and 169 can take bail.

S. 497. (1) When any person accused of any non-

When bail may be taken in case of non-bailable Offences bailable offence is arrested or detained without warrant by an officer of a police station, or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or transportation for life:

Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail.

(2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial as the case may be, that there are reasonable grounds for believing that the accused has committed a non-bailable offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the direction of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(3) An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2) shall record in writing his or its reasons for so doing.

(4) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, or the execution by him of a bond without sureties for his appearance to hear judgment delivered.

(5) A High Court or Court of Session and, in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody.

NOTES

Bail is not to be withheld merely as a punishment. Its object is to secure the accused's attendance at the trial and the tests are, (a) the nature of the accusation, (b) the nature of evidence in support of it, (c) the severity of punishment which conviction will entail, (d) whether sureties are independent or

indemnified by the accused, and (e) the character and behaviour of the accused—1929 L. 284; 1926 R. 51; 1927 P. 302 see also 1928 B. 244; 1925 M. 1224; 38 C. L. J. 388.

The circumstances of the case, and the questions whether the applicant may or may not be released on bail without fear of absconding or terrorising prosecution witnesses, or committing similar or any other offence while on bail, ought to be considered in disposing of applications for bail—27 A. L. J., (1929) p. 927.

If the charge against a prisoner relates to a non-bailable offence punishable with death or transportation for life and is well founded, it is illegal to release him on bail.

In the case of any other non-bailable offence it is discretionary with an officer in charge of a police station or a Court to release the prisoner on bail but the discretion should be supported by recorded reasons. Such reasons among others are the technical or trivial nature of the offence, or the respectability, sex, age, disease or infirmity of the offender.

If, however, the charge in respect of a non-bailable offence is not well founded but there are sufficient grounds for further inquiry into it, the prisoner must be released on bail. In this case too the Court or the officer in charge has to record reasons for releasing the prisoner. •

B—Departmental Rule for Bail

Whenever an accused person is arrested the investigating officer or officer in charge of the station must consider, with reference to section 169 and Chapter XXXIX of the Code of Criminal Procedure, whether bail should be allowed. Bail cannot be refused unless there are reasonable grounds for believing that the accused has been guilty of a non-bailable offence and even in such circumstances the grant of the bail by the officer in charge of a police station is not prohibited

178 POLICE POWERS & DUTIES UNDER CR. P. C.

unless the offence is one punishable with death or transportation for life. An investigating officer not in charge of a police station may not take bail, except under section 169 of the Code of Criminal Procedure, when there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused person to a Magistrate. In cases covered by sections 496 and 497, Code of Criminal Procedure, he should send accused persons to the officer in charge of the police-station with his recommendations. In cases where there are reasonable grounds for believing that a person has been guilty of a non-bailable offence, an officer in charge of a police-station should before releasing him on bail according to the special provisions of section 497, Criminal Procedure Code, consider the past history of the accused, if this is known, and also the possibility of the accused absconding, should he be released. *P. Reg. (U. P.) Ch. XII para. 143.*

Similar are the provisions in other Provinces.

C—Case under the Code where bail may be granted.

1. In case of arrest under section 57 (1) bail is to be granted U/S 57 Cl. (2) when the true name and residence of the arrested person has been ascertained.

If such person is a non-resident of British India, the bond shall be secured from a surety or sureties in British India.

2, U/S 63 a Police officer may discharge an apprehended person on his executing a bond or on bail.

3. U/S 76 when on arresting a person under a warrant issued by a Magistrate there is an endorsement to release him on bail.

4. U/S 169 when after the investigation of an offence, the evidence against the accused is deficient.

5. U/S 170 Cl. (1) when after the investigation of an offence the evidence against the accused is sufficient but the offence is bailable.

D. Provisions for bail in respect of offences under other Laws

If punishable with death, transportation or imprisonment for 7 years or upwards.....Not bailable.

If punishable with imprisonment for 3 years and upwards, but less than 7 years.....Not bailable, except in cases under the Indian Arms Act, section 19, which shall be bailable.

If punishable with imprisonment for one year and upwards, but less than 3 years.....bailable.

If punishable with imprisonment for less than one year or with fine only.....bailable

See—Criminal Procedure Code, Schedule II.

Persons arrested for offences under Section 34 of the Police Act (No. V of 1861) should be called upon to execute a bond to appear before a Magistrate if required.

CHAPTER XVII

MISCELLANEOUS

1. Recovery of any money ordered to be paid.

S. 547. Any money (other than a fine) payable by virtue of any order made under this Code, and the method of the recovery of which is not otherwise expressly provided for shall be recoverable as if it were a fine.

NOTES

This section provides for the recovery of (a) compensation ordered to be paid under Sec. 250, costs under Sec. 148 (3) and Court Fees and process fees mentioned in Sec. 546 A.

An order for the refund of compensation paid to the complainant may be enforced under this section— *see 19 A. 112; 6 A. 96; 7 Mad. 563.*

See para 261 of the Police Regulations (U.P.)

2. Powers of Police to seize property suspected to be stolen

S. 550. Any Police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Such Police officer, if subordinate to the officer in charge of a police station shall forthwith report the seizure to that officer.

NOTES

If a Police officer has reason to suspect certain property to be

stolen, he must himself seize the property. He cannot order any other person to detain the same—16 O.C. 371.

This section does not empower him to seize any other property which is mixed with the stolen one—1909 P.W.R. 14.

3. Powers of superior officers of police

S. 551. Police officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

4. Magisterial power to compel restoration of abducted females

S. 552. Upon complaint made to a Presidency Magistrate or District Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of sixteen years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

5. Officers concerned in sales not to purchase or bid for property.

S. 560. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

6. Special provisions with respect to offence of rape by a husband.

S. 561. (1) Notwithstanding any thing in this Code, no Magistrate except a Chief Presidency Magistrate or District Magistrate shall—

182 POLICE POWERS & DUTIES UNDER CR. P. C.

- (a) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or
 - (b) commit the man for trial for the offence,
- (2) And, notwithstanding any thing in this Code, if a Chief Presidency Magistrate or District Magistrate deems it necessary to direct an investigation by a Police officer, with respect to such an offence as is referred to in sub-section (1), no Police officer of a rank below that of police inspector shall be employed either to make, or to take part, in the investigation.

NOTES

Under this section a police inspector alone is empowered to investigate an offence contemplated by sub-section (1) if so directed by the Chief Presidency Magistrate or District Magistrate.

SCHEDULE II
Cr. P. C.

SCHEDULE II

TABULAR STATEMENT OF OFFENCES

EXPLANATORY NOTE.—The entries in the second and seventh columns of this schedule, headed respectively “Offence” and “Punishment under the Indian Penal Code,” are not intended as definition of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

The third column of this schedule applies also to the police in the towns of Calcutta and Bombay.

CHAPTER V.—ABETMENT

Section	1	2	3	4	5	6	7	8	By what Court triable	The Court by which the offence abetted is triable
			Whether the police or a sum- may arrestmons shall without ordinarily issue in the first instance	Whether a warrant or not		Whether bailable or not.	Punishment under the Indian P. Code.			
109	Abetment of any offence, if the act abetted is com- mitted in conse- quence and		May ar- rest without warrant if arrest	Accord- ing as a warrant	Accord- ing as the off- ence ab- etted is					

	for the offence abetted may be m a d e without warrant but not otherwise.	or sum-mons may is- sue for the offence abetted.	baillable or not.	c o m - Foun d- able or not	Ditto	Ditto	Ditto	Ditto
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
111	Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso.	May, ar- rest without warrant, if arrest for the offence	Accord- ing as a warrant or sum- mons may is- sue for the offence	Accord- ing as the off- ence ab- etted is baillable or not,	The same pu- nishment as for the offence intended to be abetted.	Accord- ing as the off- ence ab- etted is c o m - pound-	The Court by which the offence abet- ted is triable.	

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
117	Abetting the commission of an offence by the public or by more than ten persons.	Ditto	Ditto	Ditto	Ditto	provided for the offence or fine, or both. Imprisonment of either description for 3 years, or fine, or both.	Ditto
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto	Ditto	Not bailable.	Ditto	Imprisonment of either description for 7 years and fine.	Imprisonment of either description for 3 years and fine.
	If the offence be not committed.	May arrest without warrant if arrest made.	* [Bailable]	Accordinging as the offence is abetted		The Court by which the offence abetted is triable.	

	for the offence abetted may be made without warrant, but not otherwise.	Ditto	Ditto	A ccording as the offence abetted is bailable or not.	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto	Ditto	Imprisonment of either description for 10 years, or both.
119	A public servant concealing a design to commit an offence which it is his duty to prevent if the offence be committed.	Ditto	Ditto	If the offence be punishable with death or transportation for life.	Not bailable	Ditto	Ditto	Imprisonment of either description for 10 years.

* Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
If the offence be not committed.	Ditto	Ditto	*[Bail- able]	Ditto	Imprisonment extending to a quarter part of the longest term, and of any descrip- tion, provi- ded for the offence, or fine, or both.	Ditto	Ditto
120 Concealing a de- sign to commit an offence punishable with imprisonment, if the offence be committed.	Ditto	Ditto	*[Accord- ing as the off- ence is conceal- ed, is bailable or not.]	Ditto	Ditto	Ditto	Imprisonment extending to one eighth part of the longest
If the offence be not committed.	Ditto	Ditto	*[Bail- able.]	Ditto	Ditto	Ditto	

		Court of Session when the offence which is the object of the conspiracy is triable exclusively by such Court : in the case of all other Offences, Court of Session, Presiding Magistrate or Magistrate of the first class.	
120F	Criminal conspiracy to commit a ⁿ offence punishable with death, transportation or rigorous imprisonment for a term of two years or upwards.	Accordinging as a warrant or summons which is issued for the offence which is the subject of the conspiracy may be made without warrant, but not otherwise.	The same punishment as that provided for the abetment of the offence which is the object of the conspiracy.
	Any other criminal conspiracy.	Shall not arrest	Imprisonment of either des-
		Summons	Ditto

*Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II.—(contd.)

* CHAPTER V.A.—CRIMINAL CONSPIRACY.

1	2	3	4	5	6	7	8
		without a war- rant.				cription for six months and fine or both.	Magistrate of the first class

CHAPTER IV.—OFFENCES AGAINST THE STATE

121	Waging, or tempting to wage war, or abetting the waging of war against the Queen,	Shall not arr e st without warrant	Warrant Not bail- able.	Not com- pound- able.	Death, or tran- sportation for life, and † [fine]	Court of Ses- sion.	Court of Ses- sion.
121A	Conspiring to commit certain offences against the State,	Ditto	Ditto	Ditto	Ditto	Transportation for life or any shorter term, or imprisonment of either description	Ditto

122	Collecting arms, etc., with the in- tention of wage- ing war against the Queen.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or im- prisonment of either descrip- tion for 10 years and † [fine].	Ditto
123	Concealing with intent to facili- tate a design to wage war.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either des- cription for 10 years and fine.	Ditto
124	Assaulting Gover- nor General, Governor, etc., with intent to	Ditto	Ditto	Ditto	Ditto	Imprisonment of either des- cription for 7 years and fine.	Ditto

* This chapter was inserted by s. 6 and the Sch. of the Indian Criminal Law Amendment Act, 1913
(VIII of 1913).

† Substituted by Act 18 of 1923.

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
124A	Sedition compel or restrain the exercise of any lawful power.	Ditto	Ditto	Ditto	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, specially empowered by the Local Government in that behalf.	Court of Session, Chief Presidency Magistrate or District Magistrate of the first class or fine.	Court of Session, Chief Presidency Magistrate or District Magistrate of the first class or fine.
125	Waging war against any Asiatic power in alliance or at	Ditto	Ditto	Ditto	Transportation for life and fine, or imprisonment of	Court of Session.	Court of Session.

peacc with the Queen, or abetting the waging of such war.	Committing depredation on the territories of any power in alliance or at peace with the Queen.	Ditto	Ditto	Ditto	either description for 7 years and fine, or fine.	Imprisonment of either description for 7 years and fine and forfeiture of certain property.	Ditto
126	Receiving property taken by war or depredation mentioned in Sections 125 and 126.	Warrant	Not bailable.	Not com-poundable.	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Court of Session.	Ditto
127	Public servant voluntarily allowing prisoner of State or war in his custody to escape.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto	Ditto
128							

* These words were inserted by *this*.

† This word was substituted for the words "forfeiture of property" by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II.—*continued.*

1	2	3	4	5	6	7	8
129	Public servant negligently suffering prisoner of State or war in his custody to escape.	Ditto	Ditto	Bailable	Ditto	Simple imprisonment for 3 years and fine.	Court of Session. President Magistrate or Magistrate of the first class. (196)
130	Aiding escape of, rescuing or harbouring such prisoner, or offering any resistance to the release of such prisoner.	Ditto	Ditto	Not bailable.	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
131	Abetting mutiny or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto	Ditto	Ditto	Ditto	Death or transportation for life or imprisonment of either description for 10 years, and fine.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer, when in the execution of his office.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.
134	Abetment of such assault if the assault is committed.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.
135	Abetment of the desertion of an officer, soldier or sailor.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 2 years or fine, or both.
136	Harbouing such an officer, soldier or sailor, who has deserted.	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first or second class. Ditto

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant	Summons	Ditto	Fine of rupees.	Ditto	Presidency Magistrate or Magistrate of the first or second class.
138	Abetment of act of insubordination by an officer, soldier or sailor if the offence be committed in consequence.	May arrest without warrant	Warrant	Not compoundable.	Imprisonment of either description for 6 months or fine, or both.	Ditto	Any Magistrate.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto	Summons	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.		

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

		May ar- rest without warrant.	Summons	Bailable	Not com- pound- able.	Imprisonment of either des- cription for 6 months, or fine, or both.	Any Magis- trate.
143	Being member of an unlawful as- sembly.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either des- cription for 2 years, or fine, or both.	Ditto
144	Joining an unlaw- ful assembly armed with any deadly weapon.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
145	Joining or con- tinuing in an un- lawful assembly, knowing that it has been com- manded to dis- perse.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
147	Rioting . . .	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
148	Rioting, armed with a deadly weapon.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either des- cription for 3	Court of Ses- sion, Presi- dency

SCHEDULE II.—*contd.*

(200)

1	2	3	4	5	6	7	8
9	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	Accordinging as arrest may be made without warrant for the offence or not.	Accordinging as a warrant or summons may issue for the offence.	Ditto	The same as for the offence.	Magistrate or Magistrate of the first class.	The Court by which the offence is triable.
150	Hiring or employing persons to take part in an unlawful assembly.	May arrest without warrant.	Accordinging to the offence committed by the persons hired.	Ditto	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto	

151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	S u m - mons. May ar- rest without warrant.	Bailable.	Not com- poundable.	Imprisonment of either description for 6 months, or fine or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, etc.	Ditto	Warrant.	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Ses- sion, Presi- d e n c y Magistrate or Magistrate of the first class.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed. If not committed.	Ditto	S u m - mons.	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate. Ditto

SCHEDULE II.—*contd*

1	2	3	4	5	6	7	8
153A	Promoting enmity between classes.	Shall not arrest without warrant.	Warrant	Not bailable	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class. (202)
154	Owner or occupier of land not giving information of riot, etc.	Ditto	S. u. mmons	Bailable.	Ditto	Fine of 1,000 rupees.	Presidency Magistrate or Magistrate of the first or second class.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto	Fine	Ditto
156	Agent of owner or occupier for whose benefit a riot is committed not	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

	using all lawful means to prevent it.						
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto
158	Being hired to take part in an unlawful assembly or riot.		Ditto	Ditto	Ditto		Ditto
159	Or to go armed .		Ditto	Warrant	Ditto	Imprisonment of either description for 2 years or fine, or both.	Ditto
160	Committing affray.		Shall not arrest without warrant.	S u m - mons	Bailable, Not compoundable.	Imprisonment of either description for one month, or fine of 100 rupees, or both.	A n y Magis- trate.

SCHEDULE II.—*contd.*

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

1	2	3	4	5	6	7	8
161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	S u mmons	Bailable	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.

					Court of Session, Presidency Magistrate or Magistrate of the first class.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
168	Public servant unlawfully engaging in trade.	Shall not arrest without warrant.	Summons	Tailable	Not compoundable.	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
169	Public servant unlawfully buying or bidding for property.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto
170	Personating a public servant.	May arrest without warrant.	Warrant	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate,
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto

*CHAPTER IXA.—OFFENCES RELATING TO ELECTIONS

17 E	Bribery	Shall not arrest without warrant.	Summons Bailable	Not com- poundable.	Imprisonment of either description for 1 year, or fine, or both or if treating only, fine only.	Pres i d e n c y Magistrate or Magistrate of the first class,
17 F	Undue influence and personation at an election.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto
17 G	False statement in connection with an election.	Ditto	Ditto	Ditto	Fine . . .	Ditto
17 H	Illegal payments in connection with elections.	Ditto	Ditto	Ditto	Fine of 500 rupees.	Ditto
17 I	Failure to keep election accounts.	Ditto	Ditto	Ditto	Fine of 500 rupees.	Ditto

* These entries were added by s. 3 of the Indian Elections Offences and Inquiries Act, 1926
(XXXIX of 1920).

SCHEDULE II.—*contd.*
CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

1	2	3	4	5	6	7	8
172	Absconding to avoid service of summons or other proceedings from a public servant. If summons or notice require attendance in person, etc., in a Court of Justice.	Shall not arrest without warrant.	Bailable	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto	Any Magistrate
173	Preventing the service or affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Shall not arrest without warrant.	Bailable	Not compoundable.	Simple imprisonment for 6 months, or fine of 1,000 rupees or both.	Ditto	Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
If the document is required to be produced in or delivered to a Court of Justice.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court, a Presidency Magistrate or Magistrate of the first or second class. Ditto	Presidency Magistrate or Magistrate of the first or second class.
176 Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information. If the notice or information required respects the commission of an offence, etc.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees or both.	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.

177	Knowingly furnish- ing false informa- tion to a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
	If the information required respects the commission of an offence, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either des- cription for 2 years or fine, or both.	Ditto
178	Refusing oath when duly required to take oath by a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto	Simple impris- onment for 6 months, or fine of 1,000 rupees, or both.	(211) The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II —*contd.*

1	2	3	4	5	6	7	8
179	Being bound to state truth and refusing to answer questions.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto	Ditto	Ditto	Ditto	Simple Imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 6 months or fine of 1000 rupees or both.	Presidency Magistrate or Magistrate of the first or second class

		Ditto	Ditto	Ditto	Ditto	Ditto
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto
186	Obstructing public servant in discharge of his public functions.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
187	Omission to assist public servant when bound by law to give such assistance.	Ditto	Ditto	Ditto	Ditto	Simple Imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto
	Wilfully neglecting to aid a public servant who demands aid in the executing of process, the prevention of offences, etc.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto
188	Disobedience to an order lawfully promulgated by a public servant if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto

	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
If such disobe- dience causes danger to human life, health or safety, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
189 Threatening a public servant with injury to him, or one in whom he is in- terested, to in- duce him to do or forbear to do any official act.	Ditto	Ditto	*	Ditto	*	*	*	*
190 Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto	*	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
193 Giving or fabricat- ing false evidence in a judicial pro- ceeding.	Shall not arrest without warrant	Warrant Bailable	Not com- pound able.	Imprisonment of either des- cription for 7 years, and fine.	Imprisonment of either des- cription for 1 year, or fine, or both.	Imprisonment of either des- cription for 2 years or fine, or both.	Imprisonment of either des- cription for 6 months, or fine of 1,000 ruppes, or both.	Court of Ses- sion, Presi- dency Magis- trate or Magistrate of the first class.

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
	Giving or fabricating false evidence in any other case.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description, for 3 years, and fine.	Ditto
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto	Ditto	Not bailable	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
195	If innocent person be thereby convicted and executed.	Ditto	Ditto	Ditto	Ditto	Death, or as above.	Ditto
	Giving or fabricating false evidence with intent to procure conviction of an	Ditto	Ditto	* Not bailable	Ditto	The same as for the offence.	Ditto

			Court of Session, Presidency Magistrate or Magistrate of the first class.
		Ditto	The same as for giving or fabricating false evidence.
196	Using in a judicial proceeding evidence known to be false or fabricated.	Ditto	According as the offence of giving such evidence is bailable or not
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	Ditto

* The words "Not bailable" were substituted for the word "Bailable" by Part II of the Second Schedule to the Repealing and A mending Act, 1903 (I of 1903).

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
198	Using as a true certificate one known to be false in a material point.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
199	False statement made in any declaration which is by law receivable as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
200	Using as true any such declaration known to be false.	Ditto	Ditto	Ditto	Not compounable	Ditto	Ditto
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.	

	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
If punishable with transportation for life or imprisonment for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.
If punishable with less than 10 years imprisonment.	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description provided for which the offence, or fine, or both.
202 Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 6 months or fine, or both.
203 Giving false information respecting an offence committed.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 2 years, or fine or both.

SCHEDULE II—*contd.*

(220)

1	2	3	4	5	6	7	8
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto	Presidency or Magistrate or Magistrate of the first class.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
206	Fraudulent removal or concealment, etc., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years or fine, or both.	Ditto	Imprisonment of either description for 2 years, or fine, or both.

207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Shall not arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment or either description for 2 years, or fine, or both.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first class.
209	False claim in a Court of Justice.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, and fine.

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto
211	False charge of offence made with intent to injure. If offence charged be punishable with imprisonment for 7 years or upwards.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If offence charged be capital, or punishable with transportation for life.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session.

(222)

		Court of Session, Presidency Magistrate or Magistrate of the first class.
212	Harbouring an offender, if the offence be capital.	Ditto May arrest without warrant
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto Ditto
	If punishable with imprisonment for 1 year and not for 10 years.	Ditto Ditto
213	Taking gift, etc., to screen an offender from punishment, if the offence be capital.	*May arrest without warrant

These words were substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act 1923
(XVII of 1923).

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
If punishable with transportation for life or with imprisonment for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine, or of the first class.	Court of Session, Prisidency Magistrate or Magistrate of the first class.	Prisidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
If with imprisonment for less than 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine or both.	Imprisonment for 7 years, and fine.	Court of Session.
Offering gift or restoration of property in consideration of screening offender, if the offence be capital.	*[Sha 11 or not ar- res t without warrant.]	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session.

If punishable with transportation for life, or with imprisonment for 10 years.	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
If with imprisonment for less than 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment for either description for 3 years and fine.
215	Taking gift to help to recover movable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term and of the description provided for the offence, or fine or both.
	*[May arrest without warrant.]	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years or fine or both.

* These words were substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act,

1923 (XVIII of 1923).

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with transportation for life, or with imprisonment for 10 years.	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 3 years, with or without fine.	Ditto
	If with imprisonment for 1 year, and not for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description provided for the offences, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.

216A	Harbouring robbers or dacoits.	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years, and fine.	Court of Session, President, or Magistrate, or Magistrate of the first class.
217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture.	Summons Shall not arrest without warrant	Ditto	Ditto	Imprisonment of either description for 2 years, or fine or both.	President, Magistrate or Magistrate of the first or second class.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Warrant	Ditto	Ditto	Imprisonment of either description for 3 years, or fine or both.	Court of Session.

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
219	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict, or decision which he knows to be contrary to law.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto

				Court of Session, Presidency Magistrate or Magistrate of the first class.
If punishable with transportation for life, or imprison- ment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either des- cription for 3 years, with or without fine.
If with im- prison- ment for less than 10 years	Shall not arrest without warrant	Warrant	Bailable	Imprisonment of either dis- cription for 2 years, with or without fine.
222 Intentional omis- sion to appre- hend on the part of a public ser- vant bound by law to apprehend person under sentence of a Court of Justice if under sentence of death.	Ditto	Ditto	Ditto	Transportation for life or im- prisonment of either descrip- tion for 14 years, with or without fine.
				Court of Ses- sion.

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
If under sentence of transportation or penal servitude for life, or transportation, imprisonment, or penal servitude for 10 years or upwards.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
If under sentence of imprisonment for less than 10 years or awfully committed to custody.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto	Simple imprisonment for 2 years, or fine, or both.
223 Escape from confinement negligently suffered by a public servant.	Ditto	S u n - mons.	Ditto	Ditto	P r e s i d e n c y Magistrate or Magistrate of the first or second class.		

224	Resistance or ob- struction by a person to his law- ful apprehension.	May ar- rest Warrant	Ditto	Ditto	Imprisonment of either des- cription for 2 years, or fine, or both.	Ditto	Ditto	Court of Ses- sion, Presi- dency Magis- trate or Magistrate of the first class.
225	Resistance or ob- struction to the lawful apprehe- nsion of another person, or rescu- ing him from law- ful custody.	Ditto	Ditto	Ditto	Imprisonment of either des- cription for 3 years, and fine.	Ditto	Ditto	Imprisonment of either des- cription for 7 years, and fine.
	If charged with an offence punishable with transporta- tion for life, or imprisonment for 10 years.	Ditto	Not bai- able	Ditto	Imprisonment of either des- cription for 3 years, and fine.	Ditto	Ditto	Imprisonment of either des- cription for 7 years, and fine.
	If charged with a capital offence.	Ditto	Ditto	Ditto	Court of Ses- sion.	Ditto	Ditto	Court of Ses- sion.

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
	If the person is sentenced to transportation for life, or to transportation, penal servitude or imprisonment for 10 years or upwards.	Ditto	Ditto	Ditto	Not compoundable.	Ditto	Ditto
	If under sentence of death.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto
225A	Omission to apprehend, or sufferance of escape on part of public servant, in cases not otherwise provided for—						

	Shall not arrest without warrant.	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
(a) in cases of intentional omission or suffering.	Ditto	Summons	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
(b) in case of negligent omission or suffering.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 6 months, or fine or both.	Ditto
225B	Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for.	Ditto	Not bailable.	Ditto	Transportation for life, and fine, and rigorous imprisonment for 3 years before transportation.	Court of Session.
226	Unlawful return from transportation.	Ditto	Not bailable.	Ditto		

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
227	Violation of condition of punishment.	Shall not arrest without warrant	Summons	Ditto	Ditto	Punishment of original sentence, or if part of the punishment has been undergone, the residue.	The Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto	Ditto	Failable	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV.
229	Personation of a juror or assessor.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

		Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
231	Counterfeiting, or performing any part of the process of counterfeiting coin.	May arrest without warrant.	Ditto	Ditto	Transportation for life or imprisonment of either description for 10 years, and fine.	Ditto
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
234	Making, buying or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	

SCHEDULE II —*contd.*

1	2	3	4	5	6	7	8
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class. (236)
If Queen's coin.		Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Court of Session.
236	Abetting in British India the counterfeiting out of British India of coin.	Ditto	Ditto	Ditto	Ditto	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto

		Court of Session. President Magistrate or Magistrate of the first class.	
237	Import or export of counterfeit coin knowing the same to be counterfeit.	Ditto	Ditto
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit	Ditto	Ditto
239	Having any counterfeit coin known to be such when it came into possession, and delivering, etc., the same to any person.	Ditto	Ditto
240	The same with respect to the Queen's coin.	May arrrest without warrant	[Not bailable]

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, of ten times the value of the coin counterfeited, or both.	Presidency Magistrate or Magistrate of first or second class.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto

				Court of Session.
244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto	Ditto	Ditto.
245	Unlawfully taking from a Mint any coining instrument.	Ditto	Ditto	Ditto
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.

SCHEDULE II—*contd.*

1	3	4	5	6	7	8
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years or fine.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years or fine.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Warrant	Not available	Not compoundable	Court of Session, Presidency Magistrate or Magistrate of the first class.	Imprisonment of either description for 10 years, and fine.

	Ditto	Ditto	Ditto	Ditto	Imprisonment of either des- cription for 3 years, and fine.	Ditto
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto	Ditto	Ditto	Imprisonment of either des- cription for 5 years and fine.	Ditto
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto	Ditto	Ditto	Imprisonment of either des- cription for 2 years, or fine of ten times the value of the coin.	Ditto
254	Delivery to an- other of coin as genuine which, when first posses- sed, the deliverer did not know to be altered.	Ditto	Ditto	Ditto	Imprisonment of either des- cription for 2 years, or fine of ten times the value of the coin.	Ditto
255	Counterfeiting a Government stamp.	Ditto	Bailable	Ditto	Transportation for life, or imprisonment of either des- cription for 10 years, and fine.	Court of Ses- sion.

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
258	Sale of counterfeit Government stamp.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
259	Having possession of a counterfeit Government stamp.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.

		Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto
260	Using as genuine a Government stamp known to be counterfeit.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause loss to Government.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto
262	Using a Government stamp known to have been before used.	Ditto	Warrant May arrest without warrant	Not com-poundable	Imprisonment of either description for 3 years, or fine, or both.	Ditto
263	Erasure of mark denoting that stamp has been used.	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.	Ditto

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
263A	Fictitious stamps.	Ditto	Ditto	Ditto	Fine of 200 rupees.	Presidency Magistrate or Magistrate of the first class	

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES

264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant	Summons	Bailable	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
265	Fraudulent use of false weight or measure.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE,
DECENCY AND MORALS.

267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto
269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May ar- rest without warrant	Summons	Bailable	Not com- pound- able.	Imprisonment of either des- cription for 6 months or fine or both.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either des- cription for 2 years, or fine, or both.
271	Knowingly disobey- ing any quarantine rule.	Shall not arrest without warrant	Ditto	Ditto	Ditto	Imprisonment of either des- cription for 6 months or fine or both.

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
272	Adulterating food or drink intended for sale, so as to make the same noxious.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months or fine of 1,000 rupees, or both	Ditto
273	Selling any food or drink as food and drink knowing the same to be noxious.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.		Summons.	Bailable	Not com-poun-dable	Presidency Magistrate or Magistrate of the first or second class.	

275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
277	Defiling the water of a public spring or reservoir.	May arrest without warrant	Ditto	Ditto	Ditto	Impisonment of either description for 3 months, or fine of 500 rupees or both. Fine of 500 rupees.	Any Magistrate.
278	Making atmosphere noxious to health.	Shall not arrest without warrant	Ditto	Ditto	Ditto	Ditto	Ditto
279	Driving or riding on a public way so rashly or negligently as to endanger human life, etc.	May arrest without warrant	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees or both	Ditto

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
280	Navigating a n y vessel, so rashly or negligently as to endanger human life, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first or second class.
281	Exhibition of a false light, mark or buoy.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
282	Conveying for hire any person, by water, in a vessel in such a state, or so loaded, as to endanger his life.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees or both.	Presidency Magistrate or Magistrate of the first or second class.
283	Causing danger, obstruction or injury in any public way or line of navigation.	Ditto	Ditto	Ditto	Ditto	Fine of 200 rupees.	Ditto

284	Dealing with any poisonous substance so as to endanger human life, etc.	Shall not arrest without warrant	S u m - mons	Bailable	Not com- poundable.	Imprisonment of either description for 6 months, or fine, of 1,000 rupees or both.	Any Magis- trate.	President y Magistrate or Magistrate of the first or second class.
285	Dealing with fire or any combustible matter so as to endanger human life, etc.	May arrest without warrant	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
286	So dealing with any explosive substance.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
287	So dealing with any machinery.	Shall not arrest without warrant	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has right entitling	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
	him to pull it down or repair it.					Ditto	Any Magistrate.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto	
290	Committing a public nuisance.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Fine of 200 rupees.	Ditto
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine, or both.	President Magistrate or Magistrate of the first or second class.

292	Sale, etc., of obscene books, etc.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 3 months, or fine or both.	Presidency Magistrate or Magistrate of the first class.*
293	"Sale, etc., of obscene object to young persons."*	Ditto	Ditto	Ditto	Ditto	"Imprisonment of either description for 6 months, or fine, or both."*	Ditto
294	Obscene songs.	Ditto	Ditto	Ditto	Ditto	[Any Magistrate.]	251 ()
294A	Keeping a lottery office.	Shall not arrest without warrant	Summons	Bailable	Not compoundable	Imprisonment of either description for 6 months, or fine, or both.	Ditto
	Publishing proposals relating to lotteries.	Ditto	Ditto	Ditto	Ditto	Fine of 1,000 rupees.	Ditto
CHAPTER XV.—OFFENCES RELATING TO RELIGION.							
295	Destroying, damaging or defiling a place of worship	May arrest	Summons	Bailable	Not compoundable	Imprisonment of either description for 2 years.	Presidency Magistrate or Magistrate of the second class.

* These words within quotations have been substituted by Act 8 of 1925.

† Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
						years, or fine or both	the first or second class.
296	or sacred object with intent to in- sult the religion of any class of persons.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either des- cription for 1 year, or fine, or both.	Ditto
297	Causing a disturb- ance to an assembly engaged in religious wor- ship.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
	Trespassing in place of worship or sculpture, dis- turbing funeral with intention to wound the feel- ings or to insult the religion of any person, or offering indignity to a human corpse.						

298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight of any person, with intention to wound his religious feeling,	Shall not arrest without warrant.	Ditto	C o m - pound d- able	Ditto	Ditto
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CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

		<i>Of Offences affecting Life.</i>				
302	Murder	... May arrest without warrant.	Warrant [Not bail-able without warrant.]	Not com- pound d- able	Death, or trans- portation for life, and fine	Court of Ses- sion.
303	Murder by a per- son under sent- ence of transpor- tation for life.	Ditto	Ditto	Ditto	Ditto	Ditto
304	Culpable homicide not amounting to murder if act by which the death is caused is done with intention of causing death, etc.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either descrip- tion for 10 years, and fine.	Ditto

SCHEDULE II.—(contd.)

1	2	3	4	5	6	7	8
	If act is done with knowledge that it is likely to cause death without any intention to cause death, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto
304A	Causing death by rash or negligent act.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
305	Abstention of suicide committed by a child, or insane or delirious person or an idiot, or a person intoxicated.	Ditto	Ditto	Not bailable	Ditto	Death, or transportation for life, or imprisonment for 10 years, and fine.	Court of Session.

306	Abetting the commission of suicide.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto
307	Attempt to murder. If such act cause hurt to any person.	Ditto	Ditto	Ditto	Ditto	Ditto	Transportation for life, or as above.	Ditto
	Attempt by life-convict to mur-der, if hurt is caused.	Ditto	Ditto	Ditto	Ditto	Ditto	Death, or as above.	Ditto
308	Attempt to com-mit culpable homicide. If such act cause hurt to any per-son.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine or both.	Ditto
309	Attempt to com-mit suicide.	Ditto	Ditto	Ditto	Ditto	Ditto	Simple impris-onment for one year, or	Presidency Magistrate or Magistrate of

SCHEDULE II—*contd.*

	2	3	4	5	6	7	8	the first or second class.
311	Being a <i>thug</i>	Ditto	Ditto	Not bailable	Ditto	Transportation for life, and fine.	Court of Session.	
								<i>Of the Causing of Miscarriage ; of Injuries to Unborn Children ; of the Exposure of Infants and of the Concealment of Births.</i>
312	Causing miscarriage If the woman be quick with child.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.	
		Shall not arrest without warrant.	Warrant	Bailable	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.	
313	Causing miscarriage without woman's consent.	Ditto	Not bailable	Ditto	Ditto	Transportation for life or imprisonment of	Ditto	

314	Death caused by an act done with intent to cause miscarriage.	Ditto	Ditto	Ditto	Ditto	either description for 10 years and fine.	Ditto
	If act done without woman's consent.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description, for 10 years, and fine.	Ditto
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or as above.	Ditto
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto	Ditto	Ditto	Ditto	Imprisonment or either description for 10 years, or fine, or both.	Ditto
317	Exposure of a child under 12 year of age by parent or person having care of it with intention of wholly abandoning it.	M.ay ar- rest without warrant.	Ditto	Bailable	Ditto	Imprisonment of either description for 7 years or fine, or both.	*Court of Ses- sion, Presi- dency Magis- trate or Ma- istrate of the first class.

*This entry was substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
318	Concealment of birth by secret disposal of dead body.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate, or Magistrate of the first class.
323	Voluntarily causing hurt.	Shall not arrest without warrant			compoundable	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant	Ditto	Ditto	Compoundable when permission is given	Imprisonment of either description, for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

Off Hurt.

† The words "or second" were omitted by *ibid.*

	Court before which a prosecution is pending.	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class,
325	Voluntarily causing grievous hurt.	Ditto	Ditto	Not compoundable	Not bailable	Transportation for life, or imprisonment of either description for 10 years, and fine.	(259)
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto	Summons	May arrest without warrant	Warrant	Imprisonment of either description for 10 years, and fine.	*Court of Session, Presidency Magistrate or Magistrate of the first class,
327	Voluntarily causing hurt to extort property or a valuable security or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Ditto	Ditto				

* Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

SCHEDULE II —*contd.*

1	2	3	4	5	6	7	8
328	Administering stupefying drugs with intent to cause hurt etc.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment, of either description for 10 years and fine.	Court of Session.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc.	Ditto	Bailable	Ditto	Ditto		

	Ditto	Ditto	Not bail-able	Ditto	Imprisonment of either description for 10 years and fine.
331	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, or fine or both.
332	Ditto	Ditto	*	Ditto	Imprisonment of either description for 10 years and fine.
333	Ditto	Ditto	Not bail-able	C o m - pound - able	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.
334	Summons	Bailable	Shall not arrest without warrant	Ditto	C o m - pound - able when
335			May arr-est without warrant		Imprisonment of either description for 4 years or fine

Court of Session, Presidency Magistrate or Magistrate of the first class.
Court of Session.
Any Magistrate.
Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
	tending to hurt any other than the person who gave the provocation.			permission is given by the Court before which a prosecution is pending	of 2,000 rupees, or both.	gistrate of the first or second class.	Any Magistrate.
336	Doing any act which endangers human life or the personal safety of others.	Ditto	Ditto	Not compoundable	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.		Imprisonment of either description for 6 months, or fine of 500 rupees, or both.
337	Causing hurt by an act which endangers human life, etc.	Ditto	Ditto	C o m - pound - a b l e when permis-	Presidency Magistrate or Magistrate of the first or second class		

338	Causing grievous hurt by an act which endangers human life, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years or fine of 1,000 rupees, or both.
	sion is given by the Court before which a prosecution is pending.					

Of Wrongful Restraint and Wrongful Confinement.

				Any Magistrate.
341	Wrongfully training any person.	May arrest any res-	Bailable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.
342	Wrongfully confining any person.	Summons without warrant	Compoundable.	Imprisonment of either description for 1 year, or fine, of 1,000 rupees or both.

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
343	Wrongfully con-fining for three or more days.	Ditto	Ditto	Ditto	*[C o m-pound-a b l e w h e n permission is given by the C. o u r t before which the prosecu-tion is pend-ing.]	Ditto	Imprisonment of either description for 2 years, or fine, or both.
344	Wrongfully con-fining for 10 or more days	Ditto	Ditto	Ditto	*[Not com-poundable.]	Ditto	Imprisonment of either description for 3 years, and fine.

Court of Ses-sion, Presi-dency Magis-trate or Ma-gistrate of the first or second class.

345	<p>Keeping any person in wrongful confinement knowing that a writ has been issued for his liberation.</p>	<p>Shall not arrest without warrant</p>	<p>Summons { Ballable</p>	<p>Not compoundable</p>	<p>Imprisonment of either description for 2 years, in addition to imprisonment under any other section.</p>	<p>Ditto</p>
346	<p>Wrongful confinement in secret.</p>	<p>May arrest without warrant</p>	<p>Ditto</p>	<p>Ditto</p>	<p>*[Compoundable when permission is given by the Court before which the prosecution is pending.]</p>	<p>Imprisonment of either description for 3 years and fine</p>
347	<p>Wrongful confinement for the purpose of extorting property or constraining to an illegal act, etc.</p>	<p>Ditto</p>	<p>Ditto</p>	<p>Ditto</p>	<p>Imprisonment of either description for 3 years and fine</p>	<p>Ditto</p>

* Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVII of 1923).

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
<i>Of Criminal Force and Assault.</i>							
352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant	Summons	Bailable	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant	Warrant	Ditto	Not compoundable	Imprisonment of either description for 2 years, or fine, or both	Presidency Magistrate or Magistrate of the first or second class.

354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
355	Assault or criminal force with intent to dishonour a person otherwise than on grave and sudden provocation.	Summons Shall not arrest without warrant	Ditto	Com- poundable	Ditto	Ditto	Ditto
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	Warrant May ar- rest without warrant	Not bailable	Imprisonment of either description for 2 years, or fine, or both	*[C o n- pound- a b l e w h e n permission is given by	Any Magis- trate.	Ditto
357	Assault or use of criminal force in attempt wrong- fully to confine a person.	Ditto	Ditto	Bailable	Imprisonment of either description for 1 year, or fine, of 1,000 rupees, or both.		

* Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
358	Assault or use of criminal force on grave and sudden provocation.	Summons	Ditto	t h e Court before wh i c h the pro- secution is pen- ding]. C o m - pound d- able	Simple im- prisonm e n t for 1 month, or fine of 200 rupees, or both.	Ditto	Court of Ses- sion, Pres- idency Magis- trate or Magis- trate of the first class.
363	Kidnapping.	May ar- rest without warrant	*[Bail able]	Not com- poundable	Imprisonment of either des- cription for 7 years, and fine	Of Kidnapping, Abduction, Slavery and Forced Labour.	

			Court of Session.
364	Kidnapping or abducting in order to murder.	Ditto	Not bailable.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto	Ditto
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, etc.	Ditto	Ditto
366A	Procreation of minor girl.	Ditto	Ditto
366P	Importation of girl from foreign country.	Ditto	Ditto
		Ditto	Ditto
		Ditto	Ditto

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	*Court of Session, Presidency Magistrate or Magistrate of the first class.
368	Concealing or keeping in confinement a kidnapped person.			Warrant	Not bailable	Not compoundable	Punishment for kidnapping or abduction.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
370	Buying or disposing of any person as a slave.			Ditto	Bailable	Ditto	Court of Session.
					Shall not arrest without warrant		

371	Habitual dealing in slaves.	May arrest without warrant	Ditto	Not bailable	Ditto	Transportation for life or imprisonment of either description for 10 years, and fine.	Ditto
372	Selling, or letting to hire a minor for purposes of prostitution, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
373	Buying or obtaining possession of a minor for the same purposes.	Ditto	Ditto	Ditto	Ditto		Ditto
374	Unlawful compulsory labour.	*[Shall not arrest without warrant]	Ditto	Bailable	Com-poundable	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

*Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act 1923 (XVIII of 1923).

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
<i>Of Rape</i>							
376	Sexual intercourse by a man with his own wife not being under 12 years of age.	Not cognizable	•S u m - mons	Bailable	Not compoundable	Imprisonment of either description for 2 years or fine or both.	Court of Session, Presidency Magistrate or District Magistrate.
	Sexual intercourse by a man with his own wife being under 12 years of age.	Not cognizable	Ditto	Bailable	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Sessions.
	In any other case,	Cognizable	Warrant	Not bailable	Ditto	Ditto	Ditto

Of Unnatural Offences.

377	Unnatural offences	May arrest without warrant	Warrant	Not bailable.	Not compoundable	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
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CHAPTER XVII.—OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft	May arrest without warrant	warrant	Not bailable	Not compoundable	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.
380	Theft in a building, tent or vessel.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
381	Theft by clerk or servant of property in possession of master or employer.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
382	Theft, preparation having been made for causing death, or hurt.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
384	or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it.	Extortion.	Warrant shall not arrest without warrant	Bailable	Not compoundable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
385	Putting or attempting to put in fear of injury, in order to commit extortion,	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine or both.	Ditto

		Ditto	Ditto	Ditto	Court of Session.
386.	Extortion by putting a person in fear of death or grievous hurt.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years. If the offence threatened be an unnatural offence.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.
		Ditto	Ditto	Ditto	Transportation for life.

SCHEDULE II.—contd.

1	2	3	4	5	6	7	8
389	Putting a person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years in order to commit extortion.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
	If the offence be a n unnatural offence.				Ditto	Transportation for life.	Ditto

Of Robbery and Dacoity

392	Robbery	May ar- rest without warrant	Warrant	Not bail- iable	Not com- poundable	Rigorous im- prison- ment for 10 years, and fine.	Court of Ses- sion, Presi- dency Ma- gistrate or Magistrate of the first class.
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	If committed on the highway between sunset and sunrise.	Ditto	Ditto	Ditto	Rigorous imprisonment for 14 years, and fine.	Ditto
393	Attempt to commit robbery.	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years, and fine.	Ditto
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto
395	Dacoity	Ditto	Ditto	Ditto	Court of Session.	Ditto
396	Murder in dacoity	Ditto	Ditto	Ditto	Death, transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto

SCHEDULE II—*contd*

1	2	3	4	5	6	7	8
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for not less than 7 years.	Ditto
398	Attempt to commit robbery or dacoity, when armed with deadly weapon.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years, and fine.	Ditto
399	Making preparation to commit dacoity.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years, and fine.	Ditto
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto

401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
402	Being one or more persons assembled for the purpose of committing dairies.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session.
<i>Of Criminal Misappropriation of property.</i>							
403	Dishonest misappropriation of movable property, or converting it to one's own use.	Shall not	Warrant	Ditto	* [Com- pound able when permis- sion is given by the Court before which the pro- secution is pen- ding.]	Imprisonment of either description for 2 years or fine or both.	Any Magistrate

* Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II—*contd.*

I	2	3	4	5	6	7	8
404	Dishonest misappropriation of property knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it. † If by clerk or person employed by deceased	Shall not arrest without warrant	Warrant	Dailable	Not compoundable	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate, or Magistrate of the first or second class.
405	Criminal breach of trust,	May arrest without warrant	Warrant	Not bailable	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
406	Of Criminal Breach of Trust.	May arrest without warrant	Warrant	Not bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

407	Criminal breach of trust by a carrier, wharfinger, etc.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
408	Criminal breach of trust by a clerk or servant.	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
409	Criminal breach of trust by public servant or by banker, merchant or agent, etc.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

* Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

† The figures "405" were omitted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II—*contd*

1	2	3	4	5	6	7	8
<i>Of the Receiving of Stolen Property</i>							
411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest, without warrant	Not capable	Not compoundable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.	Court of Session.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto	Ditto
413	Habitually dealing in stolen property.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto	Ditto

414	Assisting in concealment or disposal of stolen property knowing it to be stolen.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
417	Cheating.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine or both.	Presidency Magistrate or Magistrate of the first or second class.
418	<i>Of Cheating*</i>	Ditto	Pailable	* [Compoundable when permission is given by the Court before which the prosecution is pending.]		
419	Shall not arrest without warrant					

* Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
418	Cheating a person whose interest the offender was bound, either by law or by legal contract to protect.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
419	Cheating by perspiration.	M a y arrest without warrant	Ditto	*[Ditto]	Ditto	Ditto	Ditto
420	Cheating and thereby dishonestly inducing delivery of property or the making alteration or destruction of a valuable security.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Of Fraudulent Deeds and Disposition of Property.

421	Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	Shall not arr e s t without warrant	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Not compoundable	Pres i d e n c y Magistrate or Magistrate of the first or second class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

* Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923)

SCHEDULE II.—*contd*

1	2	3	4	5	6	7	8
	dishonestly re- leasing any de- mand or claim to which he is enti- tled.						

Of Mischief

426	Mischief.	Shall not summons a r rest without warrant	Bailable	C o m - pound - a b l e when the only loss or damage caused is loss or damage to a pri- vate per- son.	Imprisonment of either des- cription for 3 months or fine or both.	Any Magis- trate.	
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							Presidency Magistrate or Magistrate of the first or second class.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	May arrest without warrant	Ditto	Ditto	Ditto	Not c o m - poun d - able	Ditto
429	Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, etc., whatever may be its value or any other animal of the value of 50 rupees or upwards.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, or fine or both	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
430	Mischief by causing diminution of supply of water for agricultural purposes, etc.	Ditto	Ditto	Ditto	Ditto	* [Compoundable when permission is given by the	Ditto

* Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II—contd.

	1	2	3	4	5	6	7	8
431	Mischief by injury to public road, bridge, navigable river, or navigable channel and rendering it impassable or less safe for travelling or conveying property.	Ditto	Ditto	Ditto	* Not c o m - pound - able	Court before which the prosecution is pend- ing.]	Ditto	Court of Ses- sion, Presi- dency Magis- trate or Ma- gistrate of the
432	Mischief by caus- ing inundation or obstruction to public drainage, attended with damage.	Warrant	Bailable	Ditto	Imprisonment of either des-cription for 5 years, or fine or both.			

(289)

				first or second class.
				Court of Session.
433	Mischief by destroying or mowing or rendering less useful a light-house or seamark, or by exhibiting false lights.	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.
434	Mischief by destroying or mowing etc., a landmark fixed by public authority.	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards, or in case of agricultural produce, 10 rupees or upwards.	Ditto	Ditto	Imprisonment of either description for 7 years, and fine
				Court of Session, Presidency Magistrate or Magistrate of the first or second class.

* Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
436	Mischief by fire or explosive substance with intent to destroy a house, etc.	Ditto	Ditto	Not ballable	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto	Ditto	Ditto	Ditto	"Imprisonment of either description for 10 years, and fine."	Ditto
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto	Ditto	Ditto	Ditto	Transportation for life or imprisonment of either description for 10 years, and fine.	Ditto

439	Running vessel ashore with intent to commit theft, etc.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
440	Mischief committed after preparation made for causing death, or hurt, etc.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Ditto	
<i>Of Criminal Trespass.</i>							
447	Criminal trespass.	May arrest without warrant	Summons	Bailable	Compoundable	Ditto	Any Magistrate.
448	House-trespass.	Ditto	Warrant	Ditto	Impisonment of either description for 1 year, or fine of 100 rupees or both.	Ditto	

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
449	House-trespass in order to the commission of an offence punishable with death.	Ditto	Ditto	Not bailable	Not compoundable	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Bailable	* [Co-m-poundable when permission is given by the Court before	Imprisonment of either description for 2 years and fine.	Magistrate.

If the offence is theft.	Ditto	Ditto	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
452	Illegally trespassing, having made preparation for causing hurt, assault, etc.	Ditto	Ditto	Ditto	Ditto	Ditto
453	Lurking house-trespass or house-breaking.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, and fine.	Presidency Magistrate or Magistrate of the first or second class.

* Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act 1923 (XVIII of 1923).

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment. If the offence is theft.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class. Ditto
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault etc.	Warrant	Not haul alife.	Warrant	Ditto	Imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class. Ditto
456	Lurking houses-trespass house-breaking by night.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Ditto	Ditto	Ditto
	If the offence is theft.	Ditto	Ditto	Ditto	Ditto	Ditto
458	Lurking house-trespass or house-breaking by night after preparation made for causing hurt, etc.	Ditto	Ditto	Ditto	Ditto	Ditto
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto	Ditto	Ditto	Ditto	Ditto
460	Death or grievous hurt caused by one of several	Ditto	Ditto	Ditto	Ditto	Ditto

SCHEDULE II—*contd.*

	1	2	3	4	5	6	7	8
		persons jointly concerned in house-breaking by night, etc.						Presidency Magistrate or Magistrate of the first or second class.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto	Bailable	Ditto	Imprisonment of either description for 2 years, or fine or both.		Ditto	Imprisonment of either description for 3 years, or fine, or both.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first or second class.			

CHAPTER XVIII—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS.

	465	Forgery.	Shall not arrest without warrant	Warrant	Tailable	Not compoundable	Court of Session, Presidentcy Magistrate or Magistrate of the first class.
	466	Forgery of a record of a Court of Justice or of a Register of Births, etc., kept by a public servant.	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 2 years, or fine, or both.
	467	Forgery of a valuable security, will or authority to make or transfer any valuable security, or to receive any money etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.
		When the valuable security is a promissory note of the Government of India.	May arrest without warrant	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
468	Forgery for the purpose of cheating.	Shall not arrest without warrant	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.		Ditto	Ditto	Bailable	Imprisonment of either description for 3 years and fine.	Ditto
471	Using as genuine a forged document which is known to be forged.		Ditto	Ditto	Ditto	Punishment for forgery of such document.	Same Court as that by which the forgery is triable.
	When the forged document is a promissory note of the Government of India.			Ditto	Ditto	Ditto	Court of Session.

472	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Ditto Shall not arrest without warrant	Ditto	Ditto	Transportation for life or imprisonment of either description of 7 years and fine.	Ditto
473	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Ditto	Warrant	Palable	Imprisonment of either description for 7 years, and fine.	Ditto
474	Having possession of a document,	Ditto	Ditto	Ditto	Ditto	Ditto

SCHEDULE II.—*contd.*

476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code,* or possessing counterfeited material.	Ditto	Not bailable	Ditto	Imprisonment of either description for 7 years, and fine	Ditto	Imprisonment of either description for 7 years, and fine
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, etc.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto	Transportation for life, or imprisonment of either description for 7 years, and fine,
477A	Falsification of accounts.	Ditto	*Bailable	Ditto	[*Imprisonment of either description for 7 years, or fine, or both.]	Ditto	[*Court of session, Presidency Magistrate or first class

* Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVII of 1923).

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
482	Using a false trade or property mark with intent to deceive or injure any person,	Shall not arrest without warrant	Warrant	Bailable	*[Com-poundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 1 year, or fine, or both.	Pr s i d e n c y Magistrate or Magistrate of the first or second class.
483	Counterfeiting a trade or property mark used by another, with intent to cause damage or injury.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto
484	Counterfeiting a property mark	Ditto	Summons	Ditto	*Not compoundable	Imprisonment of either description, Pres-	Court of Ses-sion, Pres-

¹*Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act 1923 (XVIII of 1923).

SCHEDULE II—*contd.*

1	2	3	4	5	6	7	8
487	Fraudulently making a false mark upon any package or receptacle containing goods with intent to cause it to be believed that it contains goods which it does not contain, etc.	Ditto	Ditto	*Not compoundable.	Imprisonment of either description for 3 years, and fine or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.	Ditto
488	Making use of any such false mark.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 3 years, or fine or both.	Ditto	Ditto
489	Removing, destroying or defacing any property marked with intent to cause injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine or both.	President Magistrate or Magistrate of the first or second class.	

Of Currency Notes and Bank Notes.

		May ar- re s t without warrant	Warrant	Not bai- lable	Not com- pound- able	Court of Ses- sion,
489A	Counterfeiting currency notes or bank notes.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either des- cription for 10 years, and fine.
489B	Using as a genuine forged or counter- feit currency notes or bank notes.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or im- prisonment of either descrip- tion for 10 years, and fine.
489C	Possession of for- ged or counterfeit currency notes or bank notes.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either des- cription for 7 years, or fine, or both.
489D	Making or possess- ing instruments or materials for forging or counter- feiting currency notes or bank notes.	Ditto	Ditto	Not bailable	Ditto	Transportation for life, or im- prisonment of either descrip- tion for 10 years, and fine.

* Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II.—*contd.*

CHAPTER XIX.—CRIMINAL BREACH OF CONTRACTS OF SERVICE

1	2	3	4	5	6	7	8
P r e s i d e n c y M a g i s t r a t e o r M a g i s t r a t e o f t h e f i r s t o r s e c o n d c l a s s .							
490	Being bound by contract to render personal service during a voyage or journey or to convey or guard any property or person and voluntarily omitting to do so. [Repealed by Act III of 1923.]	Shall not arrest without warrant,	Summons	Bailable	C o m - poun d-a b l e	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 200 rupees, or b th.	Ditto

Being bound by contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and voluntarily deserting the service or refusing to perform the duty.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.
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[Repealed by Act No. III of 1925].

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

			Court of Session.	Imprisonment of either description for 10 years, and fine
		Warrant	Not bailable	Not compoundable
493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief,	Shall not arrest without warrant		

SCHEDULE II.—*contd.*

1	2	3	4	5	6	7	8
474	Marrying again during the life time of a husband or wife.	Ditto	Warrant	Bailable	*[Compoundable with the permission of the Court before which the prosecution is pending].	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
475	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto	Ditto	* Bailable	* Not compoundable	Imprisonment of either description for 10 years, and fine.	* Court of Session.

496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto
497	Adultery.	Ditto	Bailable	Compoundable	Imprisonment of either description for 5 years, or fine or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
498	Enlisting or taking away or detaining with a criminal intent a married woman.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

* Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1973 (XVIII of 1923

SCHEDULE II.—*contd.*

CHAPTER XXI.—DEFAMATION.

	1	2	3	4	5	6	7	8
500	Defamation	...	Shall not arrest without warrant	Bailable	Compoundable	Simple imprisonment for 2 years or fine or both.	Ditto	Ditto
501	Printing or engraving knowing it to be defamatory.		Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.		Ditto	Ditto	Ditto	Ditto	Ditto	Ditto

CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

504	Insult intended to provoke a breach of the peace.	Shall not arrrest without warrant	Warrant	Bailable	Com-poundable	Any Magistrate	Imprisonment of either description for 2 years, or fine, or both.
505	False statement, rumour, etc., circulated with intent to cause mutiny or offence against the public peace.	Ditto	Ditto	Not bailable.	Not com-poundable	Ditto	Presidency Magistrate or Magistrate of the first class.
506	Criminal intimidation.	Ditto	Ditto	Bailable	Com-poundable	Ditto	* Presidency Magistrate or Magistrate of the first or second class.
	If threat be to cause death or grievous hurt, etc.			Ditto	Ditto		Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II.—*contd*

1	2	3	4	5	6	7	8
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto	Ditto	Litto	Ditto	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto
508	Act caused by introducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto	Ditto	Ditto	† [Co m- poundable	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
509	Uttering any word or making any gesture intended to insult the modesty of a woman, etc.			Warrant	Ditto	† [Co m- poundable when permission is given by the Court	Simple imprisonment for 1 year, or fine, or both.

510	Appearing in a public place, etc. in a state of intoxication, and causing annoyance to any person.	Ditto	Ditto	* [Not C o m - pound-able.]	Simple impris- onment for 24 hours or fine of 10 rupees, or both.	Any Magistrate
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CHAPTER XXIII.—ATTEMPT TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the offence.	According to as the offence is one in respect of which the police may arrest without warrant or not.	According to as the offence contem- plated by the offender is ordinari- ly issue.	Com- pound- able when the offence attempted is ordinari- ly issue.	Transportation or imprison- ment not exceeding half of the longest term, and of any descrip- tion provided for the off- ence, or fine, or both.	The Court by which the offence is tempted triable.
						313)

* These words were substituted for the word "Ditto" by Part II of the Second Schedule to the Repealing and Amending Act, 1903 (1 of 1903).

† Substituted by s. 159 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

SCHEDULE II—*contd.*
Offences against other Laws

F	2	3	4	5	6	7	8
If punishable with death, transportation or imprisonment for 7 years or upwards,		May at present without warrant	Warrant	Not bailable.	Not compoundable	... Court of Session.	
If punishable with imprisonment for 3 years and upwards, but less than 7.	Ditto	Ditto	Ditto	Ditto	Except in cases under the Indian Arms Act 1878.	... Court of Session, Presidency Magistrate or Magistrate of the first class.	

If punishable with imprisonment for 1 year and upwards, but less than 3 years.	Summons Shall not arrest without warrant	Bailable Ditto	Ditto Court of Session, Presidency Magistrate or Magistrate of the first or second class.	Any Magistrate. ***
If punishable with imprisonment for less than 1 year, or with fine only.	Ditto	Ditto	Ditto •	***

INDEX

A	PAGE	PAGE
Accomplice—		
Pardon to 171	to prevent cognizable offences 16
Accused—		under section 401 (3) Cr.
Arrest of 137	P. C. 16
Release of 149	under Special Acts ... 16
Statement of 137	when Subordinate Officer is deputed 18
Aid and Information—		when name and address is not given 15
to Magistrate and Police ... 1, 2		without warrant ... 10
Aid in execution of warrant 2		Who may— 7
Arrest—		Arrested person—
Ball on 21		Discharge of 23
by police of Indian States 25		How to be treated ... 20
by private persons ... 27		not to be detained for more than 24 hours ... 22
How made 8		Procedure when brought before Magistrate ... 41
Magistrate's power to— ... 27		Search of— 21
of European and Indian deserters 26		to be brought before Court 39
of juvenile offenders ... 27		when taken before Magis- trate or S. O. ... 22
of Railway servants ... 25		Articles connected with offences—
of vagabonds, habitual robbers, etc. 13		Procedure for sending to Sadar 144
on breach of bond for appearance 48		Attached property—
Police action after— ... 21		Restoration of ... 47
Procedure on— ... 41		Attachment of property ... 44
Procedure on resistance ... 8		
Procedure when ingress not obtainable ... 9		
to prevent commission of offences 110		

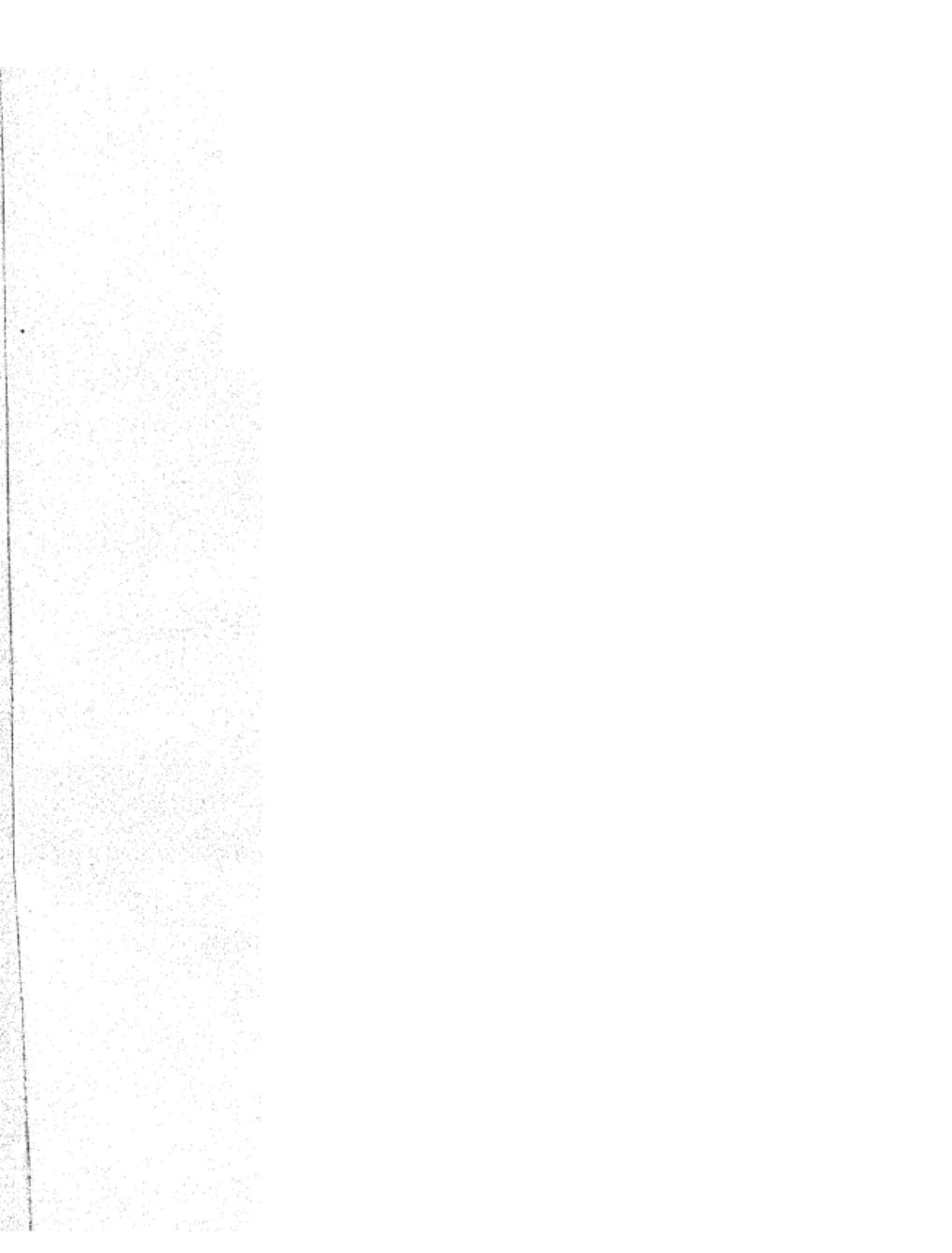
B	PAGE	E	PAGE
Ball—		Escape and Retaking	... 23
Departmental rule regarding—	... 177	Examination—	
General provisions regarding—	... 174	of complainant	... 132
in bailable offences	... 174	of children	... 134
in non-bailable offences	... 175	of Informer	... 135
in offences under other laws	179	of Deaf, dumb & blind	... 135
—on arrest	... 21	of Parda ladies	... 134
Bond—		of respectable person	... 134
for appearance	... 48	of witnesses	... 133
C		of wounded or sick person	... 134
Case Diary	...	mode of	... 134
Use of—	... 153	Execution of Process	... 32
Confession—		Evidence in 110 cases	... 88
how to be recorded	... 139		
Custody	...	F	
of Juvenile offenders	... 28	First Information Report	... 112
of lunatics	... 30	in cognizable offences	... 112
of minor girls	... 30	in non-cognizable offences	116
of sickly persons	... 30	use of	... 113
D		who may make it	... 113
Diary—		G	
of proceedings in investigation	... 152	General Repute	... 88
Dispersal of unlawful assembly	... 93	evidence of—	... 88
Disposal of things found on search beyond jurisdiction	59		
Disputes as to Immovable property	...	H	
	104	History Sheet—	
Dying declaration—		Its use in 110 cases	... 91
mode of recording	... 131		
		I	
		Identification of Property	... 143
		Identification of Suspects	... 141
		Immovable Property—	
		Disputes as to	... 104
		Information of certain offences to Police	... 2, 3

PAGE	PAGE
Information Report—	M
see—"First Information Report" ... 112	Map of locality... ... 128
Injury to Public property—	Medical Examination—
Prevention of ... 110	procedure for sending injured persons for— 130, 131
Inspection—	procedure after — ... 131
of locality ... 126	N
of weights and measures... 110	Nuisance— provision in cases of — ... 102
Investigation—	P
in cognizable offences ... 118	Panchaitnama in death cases 128
in non-cognizable ... 117	Pardon to accomplice ... 171
Procedure when refused ... 123	Plan of locality 128
when not taken up 124	Post-mortem Examination—
" when taken up ... 121	procedure for sending corpse for— 129
" when not finished in 24 hours ... 145	Postal Record—
" where accused is insane ... 143	procedure for the production of 53
" where police officers are accused 156	Preventive action of the Police 109
Inquest—— ... 161	Prevention of injury to public property 110
under village Panchait	Previous conviction—
Act ... 169	to be noted in charge sheet 156
J	Proclamation—
Juvenile offenders—	for person absconding ... 42
custody of 30	Pursuit of offenders ... 24
Joint Trial—	R
in cases u/s 108 Cr. P.C. 80	Rape—
in cases u/s 110 Cr. P.C. 87, S.5	special provision in case of 181
L	Recognition—
Local Investigation—	to be forwarded 37
when to be dispensed with 125	Recovery of money ... 179
Locality—	
Inspection of 126	

	PAGE		PAGE
Release of accused	... 149	Security u/s 110	... 82
Report of Investigation	148, 154	object of the section	... 83
Restoration of abducted person	... 181	considerations in sending up 110 cases	... 84
S		Procedure to be adopted	... 84
Search—		Action against members of a gang	... 85
during investigation	... 64	preparation of 110 cases	86
general instruction	... 68	submission of report	... 86
general provisions regarding—	... 61	action after the approval of the report	... 87
Magistrate's power to direct	60	joint inquiry	... 87
Occupant of house may attend	... 62	evidence in 110 cases	... 88
of a person or place	... 64	facts which may be proved	89
of an arrested person	... 21	type of witnesses in 110 cases	... 89
of a woman	... 21		1
of house containing stolen property etc	... 56	Section	*42
		Cr. P. C.	...
Search-Warrant—		"	2
for document or things	... 54	"	2
issued by unauthorised Magistrate's	... 60	"	3
issue of —to seize forfeited publication etc.	... 56	"	8
Security to keep the Peace	73	"	9
Security u/s 106	... 73	"	9
Security u/s 107	... 75	"	10
action taken by police	... 77	"	10
contents of police report	... 77	"	20
in cases of land disputes	... 76	"	21
when enmity due to litigation	... 76	"	21
Security u/s 108	... 78	"	22
Security u/s 109	... 80	"	10
		"	13
		"	18
		"	15
		"	24
		"	27

(v)

Section	60	Cr.	P. C.	...	22	Section	96	Cr.	P. C.	...	54
"	61	"	...		22	"	97	"	...		56
"	62	"	...		23	"	98	"	...		56
"	63	"	...		23	"	99	"	...		59
"	64	"	...		27	"	99-A	"	...		58
"	65	"	...		27	"	100	"	...		64
"	66	"	...		23	"	101	"	...		54
"	67	"	...		24	"	102	"	...		61
"	68	"	...		32	"	103	"	...		61
"	69	"	...		32	"	105	"	...		60
"	70	"	...		33	"	106	"	...		73
"	71	"	...		34	"	107	"	...		75
"	72	"	...		34	"	108	"	...		78
"	73	"	...		34	"	109	"	...		80
"	74	"	...		34	"	110	"	...		82
"	75	"	...		35	"	127	"	...		93
"	76	"	...		36	"	128	"	...		93
"	77	"	...		37	"	129	"	...		95
"	78	"	...		38	"	130	"	...		97
"	79	"	...		39	"	131	"	...		97
"	80	"	...		39	"	132	"	...		97
"	81	"	...		39	"	133	"	...		99
"	82	"	...		39	"	144	"	...		102
"	83	"	...		40	"	145	"	...		104
"	84	"	...		40	"	146	"	...		107
"	85	"	...		41	"	147	"	...		107
"	86	"	...		41	"	149	"	...		109
"	87	"	...		42	"	150	"	...		109
"	88	"	...		44	"	151	"	...		110
"	89	"	...		47	"	152	"	...		110
"	90	"	...		47	"	153	"	...		110
"	91	"	...		48	"	155	"	...		116
"	92	"	...		48	"	156	"	...		118
"	93	"	...		48	"	157	"	...		119
"	94	"	...		51	"	158	"	...		120
"	95	"	...		52	"	159	"	...		120



Section	160	Cr. P. C.	... 132	found 34
"	161	"	... 133	Issue of—in lieu of
"	162	"	... 135	warrant 47
"	163	"	... 138	To produce documents or
"	164	"	... 139	things 51
"	165	"	... 64	T
"	166	"	... 67	Telegrams—
"	167	"	... 145	Temporary Orders u/s
"	168	"	... 148	144 Cr. P. C. 102
"	169	"	... 149	Procedure as to production
"	170	"	... 150	of— ... 52, 53
"	171	"	... 151	U
"	172	"	... 152	Unlawful assembly—
"	173	"	... 154	dispersal of— ... 93
"	174	"	... 164	W
"	337	"	... 171	Warrant of Arrest ... 35
"	338	"	... 173	execution of— ... 39
"	496	"	... 174	execution of—for re-
"	497	"	... 174	covery of fine etc. ... 48
"	547	"	... 180	Execution of— outside
"	550	"	... 180	jurisdiction 40
"	551	"	... 181	its issue in lieu of sum-
"	552	"	... 181	mons 47
"	560	"	... 181	its form, essentials and
"	561	"	... 181	continuance ... 35, 36
Summons—				notification of the subject
mode of serving			of— 39	
when service cannot be			provision for security ... 36	
effected 34			power to restrict ... 56	
Service on Govt. and Ry.			Witnesses—	
servants 34			Authority to summon ... 132	
service of—outside local			examination of— ... 133	
limits 34			—not to be troubled ... 137	
Proof of service ... 34			type of—in 110 cases ... 89	
Procedure when the person			veracity of— how to be	
summoned cannot be			tested 135	